

EXHIBIT 24

(REVISED)

UNITED STATE BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR
PROTECTION CORPORATION,

Adv. Pro. No. 08-01789(SMB)

Plaintiff-Applicant,

v.

SIPA LIQUIDATION

BERNARD L. MADOFF INVESTMENT (Substantively Consolidated)
SECURITIES, LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for
the Liquidation of Bernard L.
Madoff Investment Securities,
LLC,

Plaintiff,

Adv. Pro. No. 10-04468(SMB)

v.

KEN-WEN FAMILY LIMITED
PARTNERSHIP, KENNETH W.
BROWN, in his capacity as a
General Partner of the
Ken-Wen Family Limited
Partnership; and Wendy Brown,

Defendants.

DEPOSITION OF
WENDY ELIZABETH WERNER
as a 30(b)(6) witness and individually

1 Taken on Behalf of the Plaintiff

2 DATE TAKEN: Tuesday, February 25, 2020

3 TIME: 9:42 a.m. - 1:26 p.m.

4 PLACE: 101 Northeast 3rd Avenue

5 Suite 1500

6 Fort Lauderdale, Florida 33301

7

8 Examination of the witness taken before:

9 Samantha L. Todd, FPR

10 Daughters Reporting, Inc.

11 101 Northeast 3rd Avenue

12 Suite 1500

13 Fort Lauderdale, Florida 33301

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Daughters Reporting, Inc.
Fort Lauderdale, Florida 954-755-6401

1 APPEARANCES:

2

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20

21 Also present: Kenneth W. Brown

22

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1 Deposition of Wendy Elizabeth Werner, taken
2 before Samantha Todd, Florida Professional Reporter and
3 Notary Public in and for the State of Florida at Large, in
4 the above cause.

5 THE COURT REPORTER: Do you swear or affirm
6 that the testimony you are about to give will be the
7 truth, the whole truth, and nothing but the truth?

8 THE WITNESS: I do.

9 THEREUPON,

10 WENDY ELIZABETH WERNER,
11 having been first duly sworn or affirmed, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MS. MARASCO:

15 Q. Good morning. As you know, I represent the
16 Trustee in connection with the advisory proceeding styled
17 Picard v. Ken-Wen. Before we begin I'm going to provide a
18 few instructions. I'm going to be asking you a few
19 questions today. If I ask you a question and you don't
20 understand, you should let me know and I'll do my best to
21 rephrase the question. When you answer, please answer
22 audibly. The court reporter is transcribing, so please say
23 "yes" or "no," rather than nodding. To help the court
24 reporter accurately transcribe our conversation, we should
25 try not to talk over one another. So please wait for me to

1 finish my question before you answer, and I'll not
2 interrupt you when you're answering.

3 Your counsel may object to certain questions I
4 ask. Unless he directs you not to answer, you should
5 answer the question. We can break whenever you need as
6 long as there isn't a question pending. Did you understand
7 those instructions?

8 A. Yes.

9 Q. Before we begin, are you taking any medication
10 that may impair your ability to answer questions truthfully
11 and accurately today?

12 A. No.

13 Q. Okay. To make things go more smoothly, I'm
14 just going to define a few terms that I'll use throughout
15 the deposition. "Ken-Wen" is the Ken-Wen Family Limited
16 Partnership. "B-L-M-I-S" is Bernard L. Madoff Investment
17 Securities. "Madoff" --

18 MR. BERNFELD: Say that again.

19 MS. MARASCO: B-L-M-I-S.

20 MR. BERNFELD: Is?

21 MS. MARASCO: Bernard L. Madoff Investment
22 Securities.

23 MR. BERNFELD: Are you sure you don't want
24 "LLC" at the end of that?

25 MS. MARASCO: Yes.

1 MR. BERNFELD: Okay.

2 MS. MARASCO: Thank you.

3 MS. MARASCO:

4 Q. "Madoff" is Bernard L. Madoff the person, but
5 may be used interchangeably with BLMIS. If I use the word
6 "account," I'm talking about the BLMIS Account 1-EM226-3.
7 And I'll make it clear if I'm talking about a different
8 account. Does that make sense?

9 A. Yes.

10 Q. Do you have any questions about the
11 definitions?

12 A. No.

13 Q. Okay. Have you ever been deposed before?

14 A. Yes.

15 Q. How many times?

16 A. I can't name how many times, but at least --

17 MR. BERNFELD: Speak up.

18 A. -- at least three or four.

19 BY MS. MARASCO:

20 Q. Okay. And in what capacities were you deposed,
21 in connection with certain matters that were pending? Can
22 you describe the nature of the depositions?

23 A. It was an SEC investigation of the company that
24 I was working with, K.W. Brown Investments. I had about
25 three depositions, I think.

1 Q. In connection with the same matter?

2 A. Yes.

3 Q. Okay. Do you understand that you're being
4 deposed today in your capacity as a representative of the
5 Ken-Wen Partnership and as general partner?

6 A. Yes.

7 Q. And you were present when I took the deposition
8 of Ken Brown back in January; is that right?

9 A. Yes.

10 MR. BERNFELD: Mostly. We came in, if you
11 recall, a bit late. So except for the beginning part,
12 we were here.

13 MS. MARASCO: Thank you, Mr. Bernfeld.

14 I'm going to hand you what I'll mark as Exhibit
15 1.

16 (Plaintiff's Exhibit No. 1 was marked for
17 identification.)

18 BY MS. MARASCO:

19 Q. Take your time. And this is the second amended
20 deposition notice. And whenever you're ready, you can turn
21 to Schedule A. It will show Page 1 at the bottom, but it's
22 the next page. There you go. This is a list of topics for
23 which you've been designated to testify in your capacity as
24 a representative of Ken-Wen. Have you seen this before
25 today?

1 A. I don't remember seeing it, no.

2 Q. If you want to take a moment to review, you can
3 look at -- the topics are actually found starting on
4 Page 2, and it's Items 1 through 13.

5 A. Okay.

6 Q. Are you prepared to testify on these topics
7 today?

8 A. As much as I can.

9 Q. Did you do anything to prepare to testify on
10 these topics today?

11 MR. BERNFELD: You're excluding conversations
12 with counsel?

13 MS. MARASCO: I'm asking if she did anything,
14 not what was said.

15 BY MS. MARASCO:

16 Q. Did you confer with counsel with respect to --
17 in preparing for this deposition today?

18 MR. BERNFELD: You can answer.

19 A. Yes.

20 BY MS. MARASCO:

21 Q. Did you meet with anyone else to prepare for
22 this deposition today?

23 A. No.

24 Q. How many times did you speak with counsel in
25 connection with --

1 MR. BERNFELD: I'm going to object. This is
2 not a proper area. It's --

3 MS. MARASCO: What's the basis for your
4 objection?

5 MR. BERNFELD: Attorney-client.

6 MS. MARASCO: I'm not asking for the content of
7 the discussions. I'm asking for the number of
8 occasions.

9 MR. BERNFELD: That gets into the nature of the
10 preparation.

11 MS. MARASCO: Okay. Are you instructing your
12 client --

13 MR. BERNFELD: I am.

14 MS. MARASCO: -- not to answer?

15 MR. BERNFELD: I am.

16 MS. MARASCO: Okay.

17 BY MS. MARASCO:

18 Q. Are you going to follow your attorney's
19 instruction?

20 A. Yes.

21 MR. BERNFELD: Don't answer that question.
22 What do you mean, is she going to follow? I have --

23 MS. MARASCO: Mr. Bernfeld, I'm going to ask
24 you -- you've made your objection. I'm going to
25 proceed with the deposition. We have your answer on

1 the record. Thank you.

2 MR. BERNFELD: Okay.

3 BY MS. MARASCO:

4 Q. Did you review any documents or materials to
5 prepare for this deposition today?

6 A. Yes.

7 Q. What were those documents?

8 A. Just the ones that were presented at Ken
9 Brown's deposition.

10 Q. Did you review any other documents?

11 A. No.

12 Q. Did you have any additional documents in your
13 possession that may relate to this matter?

14 A. Yes.

15 MS. MARASCO: I would make this request to
16 counsel for anything that's not been produced that is
17 relevant to the Trustee's request for production, that
18 you turn over those documents.

19 MR. BERNFELD: Sure.

20 MS. MARASCO: Thank you.

21 BY MS. MARASCO:

22 Q. And just for purposes of the record, can you
23 please state your full name?

24 A. Wendy Elizabeth Werner.

25 Q. Did you previously use another name?

1 A. Yes.

2 Q. And what was that name?

3 A. Wendy Elizabeth Brown.

4 Q. And when did you go back to Werner?

5 A. When I got my divorce final, which was in 2015.

6 Q. And where do you currently reside, Ms. Werner?

7 A. My address?

8 Q. Just generally.

9 A. Jupiter, Florida.

10 Q. Okay. Are you currently employed?

11 A. No.

12 Q. When was the last time you were employed?

13 A. A few years ago, I guess.

14 Q. Where were you last employed?

15 A. With Coldwell Real Estate Company.

16 Q. And prior to working for Coldwell, where did

17 you work?

18 A. K.W. Brown Investments.

19 Q. What is your educational background?

20 A. I have a degree from University of Miami.

21 Q. What kind of degree?

22 A. Bachelor of arts degree.

23 Q. Do you have any postgraduate degrees?

24 A. No.

25 Q. Do you have any professional certifications?

1 A. No.

2 Q. Any other specialized training?

3 MR. BERNFELD: Excuse me.

4 (Discussion between Mr. Bernfeld and his
5 client.)

6 BY MS. MARASCO:

7 Q. So I understand that you formerly had a
8 broker's license?

9 A. Yes.

10 Q. And when did you no longer have a broker's
11 license?

12 A. It was pretty much taken away, which was 2007
13 or '08.

14 Q. And how did you come to lose that license?

15 A. From an SEC case.

16 Q. And what case was that?

17 A. Against K.W. Brown Investments and the advisory
18 firms.

19 Q. When you say "advisory firms," what are you
20 referring to?

21 A. 21st Century Advisors.

22 Q. Any others?

23 A. K.W. Brown Company.

24 Q. Is that K.W. Brown Investments or K.W. Brown
25 Company?

1 A. K.W. Brown Company.

2 Q. When did you obtain your broker's license?

3 A. 1979, I think.

4 Q. Did you provide services in connection with the
5 that license through K.W. Brown and 21st Century?

6 A. Just K.W. Brown.

7 Q. Did you provide such services for 21st Century?

8 A. I didn't use my license. I didn't need a
9 license for 21st Century Advisors, because that's an
10 advisory company. I didn't have an advisory license.

11 Q. Understood. So we agreed earlier that you're
12 here today as a representative, the 30(b)(6) witness, for
13 Ken-Wen Family Limited Partnership; is that right?

14 A. Yes.

15 Q. And you were a general partner of the
16 Partnership; is that also right?

17 A. Yes.

18 Q. Did you also have a limited partnership
19 interest?

20 A. I think just general partner.

21 MS. MARASCO: I'm going to hand another
22 document to the court reporter to mark as Exhibit 2.

23 (Plaintiff's Exhibit No. 2 was marked for
24 identification.)

25 BY MS. MARASCO:

1 Q. And this is the limited partner agreement.

2 Have you seen this document before?

3 A. Yes.

4 Q. Can you tell me what it is?

5 A. It's a Partnership Agreement for Ken-Wen
6 Limited -- Family Limited Partnership.

7 Q. And what is the date on the cover page?

8 A. June 14th of 2000.

9 Q. If you will turn to the last page. At the
10 bottom of the page where it says "general partners," is
11 that your signature there on the right-hand side?

12 A. Yes.

13 Q. And then to the left of your signature, do you
14 see Mr. Brown's signature as well?

15 A. Yes.

16 Q. And after his name, does it also say "general
17 partner"?

18 A. Yes.

19 Q. Were there ever any other partners of Ken-Wen?

20 A. No.

21 Q. Why was the Partnership formed?

22 A. That was something that Ken did for estate
23 planning purposes.

24 Q. Can you explain that?

25 A. It was something that he came to me and said,

1 "I need to do estate planning. And I need to have this
2 partnership in relation to what you possibly had on, you
3 know, your side of the family." And then he did KBCB,
4 which is another partnership which what he had, like golf
5 courses and other investments that he had. But he set this
6 up as being things that started on from what I had in the
7 marriage or previous to the marriage.

8 Q. So if you'll turn to Section 1.6. That's on
9 Page 2.

10 A. It's kind of --

11 Q. Yeah, it's a little hard to --

12 A. -- misleading.

13 Q. Okay. Do you see 1.6 there?

14 A. Oh, yes.

15 Q. I'm reading the first sentence there. "The
16 purpose of the Partnership's business is to own, acquire,
17 sell, and lease real estate, marketable securities, and
18 other investment property of any type, kind or description,
19 and to do all things necessary, proper, convenient, or
20 advisable in connection therewith, as permitted by state
21 law." Did I read that correctly?

22 A. Yes.

23 Q. And then the second sentence, "The Partnership
24 also is being formed to restrict and limit the sale of
25 Partnership assets and to protect assets from creditors,

1 and provide for the cohesive management and control of
2 Partnership assets." Did I read that correctly?

3 A. Yes.

4 Q. Did Ken-Wen own, acquire, sell, or lease real
5 estate?

6 A. It had real estate interests in different
7 properties.

8 Q. Do you know how many?

9 A. I don't know offhand. I can guess, but I don't
10 know exactly how many.

11 MR. BERNFELD: No guessing.

12 BY MS. MARASCO:

13 Q. And how did Ken-Wen come to acquire those
14 interests in properties?

15 A. They were originally acquired from my father.
16 And they were in a trust that expired in the year 2000.
17 And so then they were transferred into Ken-Wen.

18 Q. Did Ken-Wen ever own or sell marketable
19 securities?

20 A. Not in and of itself, no.

21 Q. What do you mean by that?

22 A. Well, I mean, it had an account with Madoff,
23 but not separate from that.

24 Q. Did Ken-Wen ever own or sell investment
25 property?

1 A. I don't believe so.

2 Q. I'm sorry. You said you don't believe so?

3 A. No.

4 Q. Did Ken-Wen have any employees?

5 A. No.

6 Q. In your capacity as general partner, did you
7 make any management decisions with respect to the
8 Partnership?

9 A. Possibly.

10 Q. And when you say "possibly," what type of
11 decisions are you contemplating?

12 A. I'm not sure I remember management decisions
13 that were made.

14 Q. Did you perform any administrative duties for
15 the Partnership such as maintaining bookkeeping or
16 preparing taxes, anything like that?

17 A. Yes, I reconciled the checkbook.

18 Q. How often did you reconcile the checkbook?

19 A. When the statements came, you know, every
20 month, I guess.

21 Q. And when you say "statements," do you mean
22 statements from BLMIS?

23 A. The bank statements.

24 Q. Bank statements?

25 A. Yes.

1 Q. And the Partnership had an accountant; is that
2 right?

3 A. Yes.

4 Q. And what was that?

5 A. Doris Shaw.

6 Q. And how long was she the accountant for the
7 Partnership?

8 A. Until it was dissolved.

9 Q. When was it dissolved?

10 A. I believe in 2012.

11 Q. Was Ms. Shaw also the accountant at the time of
12 formation on or about June 14, 2000?

13 A. Yes.

14 Q. Did the Partnership hire any other
15 professionals?

16 A. No.

17 Q. Did the Partnership have an insurance policy?

18 MR. BERNFELD: Insurance policy did you say?

19 MS. MARASCO: That is what I said.

20 A. It did at one time, yes.

21 BY MS. MARASCO:

22 Q. And what type of insurance policy did the
23 Ken-Wen Partnership have?

24 A. It had an annuity.

25 Q. Was that the only policy?

1 A. And it had a life insurance policy.

2 Q. And who were the insured under that policy?

3 A. My mother, Violet Werner.

4 Q. During Mr. Brown's deposition, do you recall
5 him stating that he resigned as a general partner on
6 February 29th, 2008?

7 A. Yes.

8 Q. Is that consistent with your recollection?

9 A. I don't know if that was the exact date, but --

10 Q. Do you know whether or not --

11 A. -- it was probably --

12 Q. Sorry.

13 A. It may have been around that time period.

14 Q. So you think it's accurate that he would have
15 resigned around 2008?

16 A. Yes.

17 Q. Okay. Do you know what prompted the
18 resignation?

19 A. I assume --

20 MR. BERNFELD: Don't assume. She's asking
21 knowledge --

22 THE WITNESS: Okay.

23 MR. BERNFELD: -- not assumptions.

24 A. Yes.

25 BY MS. MARASCO:

1 Q. I'm sorry. What was your answer to the
2 question?

3 A. Yes.

4 Q. Do you know what prompted the resignation?

5 A. The fact that we were separated. And I don't
6 know if I had gone through the divorce yet or hired a
7 divorce attorney yet, because everything was so unsettled
8 then. But it was on the advice of an attorney and Doris
9 Shaw.

10 Q. And you testified earlier that the Partnership
11 dissolved around 2012. What happened to the Partnership
12 following Mr. Brown's resignation, if anything?

13 A. After 2008, I don't know if that was after
14 Madoff's -- you know, came to fruition or not. But I
15 thought maybe it was after that. So maybe it was --
16 because that was in 2008. So I'm not sure if that's
17 exactly when he resigned. Because he still had a limited
18 partnership interest in Ken-Wen. But I know that the Sage
19 properties were transferred to the Marital Trust 2 that my
20 mother was -- was in my mother's account.

21 Q. What are Sage properties?

22 A. That was the real estate investments that were
23 in Ken-Wen.

24 Q. And those were the interest in real estate that
25 we described earlier --

1 A. Yes.

2 Q. -- we discussed earlier?

3 A. Yes.

4 Q. I'm sorry. And you said the Sage -- those
5 properties' interests were transferred out of the
6 Partnership?

7 A. Yes.

8 Q. Into where were they transferred?

9 A. To the Harvey Werner Marital Trust 2.

10 Q. If Mr. Brown resigned as general partner in
11 2008, why was the Partnership not dissolved until 2012?

12 A. Yeah, I'm not sure he resigned in 2008.
13 Because I recollect it being a bit later than that, but I
14 don't know the dates.

15 Q. Do you have any documentation that might
16 support or show the date on which Mr. Brown resigned as a
17 general partner?

18 A. I don't know. If I do, I wouldn't know where
19 it would be.

20 Q. And we talked about the Sage properties being
21 transferred from Ken-Wen to the Harry Werner Marital Trust
22 2. About when were those interests transferred?

23 A. I'm not sure of the year either. But I know
24 they had to get figures on the value of it to offset what
25 was owned to the marital trust where it went. And so I'm

1 not sure if it was -- it might have been 2010, but I'm not
2 exactly sure of the dates.

3 Q. And you just mentioned that you had to offset
4 certain amounts owed. Did Ken-Wen owe moneys to the Harvey
5 Werner Marital Trust 2?

6 A. Ken-Wen didn't, no, but Ken Brown did.

7 Q. Other than the real estate interests that may
8 have been transferred around 2010, did the Partnership have
9 any assets?

10 A. At that time?

11 Q. At any time during its -- between 2000 and
12 2012?

13 A. It had the ones I mentioned, the insurance, and
14 it had the Madoff account, and the real estate investments.
15 And it may have -- I can't remember -- it may have had a
16 stock account, come to think of it, as well.

17 Q. What type of stock account?

18 A. I think it was for my grandmother. My
19 grandparents left me some money when they died. And I
20 think that went into a stock account.

21 Q. Was that owned by you personally or by the
22 Partnership?

23 A. The Partnership.

24 Q. When the Partnership was formed, did each
25 general partner contribute funds to the Partnership as an

1 initial contribution?

2 A. Personally?

3 Q. Personally.

4 A. No.

5 Q. Okay. And we talked a little bit before about
6 the insurance policy that Ken-Wen held, that it held a life
7 insurance policy for Violet Werner, and an annuity account;
8 is that right?

9 A. Yes.

10 MS. MARASCO: I'm going to hand another
11 document to the court reporter. This will be
12 Exhibit 3.

13 (Plaintiff's Exhibit No. 3 was marked for
14 identification.)

15 BY MS. MARASCO:

16 Q. Do you recognize this document?

17 MR. BERNFELD: Just give me a minute.

18 MS. MARASCO: I'm asking the witness.

19 MR. BERNFELD: I understand, but I'm entitled
20 to read it before the question gets responded to.

21 A. Yes.

22 BY MS. MARASCO:

23 Q. And what is this document?

24 A. Apparently Paradise Bank had asked for
25 collateral assignment on the life insurance. I believe

1 it's the life insurance, although it says "KBCB," so I'm
2 not sure. But it's collateral on something.

3 Q. What is the date on the bottom of the page?

4 A. The signed, October 8th of '08.

5 Q. And then right above that, do you see that
6 there are three different listings there, and each followed
7 by a policy number?

8 A. Yes.

9 Q. And what are those three listings there?

10 A. Kenneth Brown policy, Ken-Wen policy, and a
11 Berton Curtiss Brown policy.

12 Q. And we discussed a little bit earlier. This
13 appears to -- it's titled a Compliance Agreement between
14 Paradise Bank, Kenneth Brown, and the KBCB Family Limited
15 Partnership; is that right?

16 A. Yes.

17 Q. And then you are identified as a guarantor?
18 It's at the top of the page, the fourth item down.

19 A. On the second page?

20 MR. BERNFELD: This.

21 A. Oh, guarantor, yes.

22 BY MS. MARASCO:

23 Q. And then on the subject it says, "Re: Mortgage
24 and Note Modification and Spreader Agreement to KBCB Family
25 Limited Partnership, Limited, a Florida limited partnership

1 in the amount \$3,025,000 (loan)." Did I read that
2 correctly?

3 A. Yes.

4 Q. And first off, what is the KBCB Partnership?

5 A. It's another partnership.

6 Q. Were you a partner in KBCB Partnership?

7 A. Yes.

8 Q. Were you a general partner?

9 A. I believe so.

10 Q. Looking at this document, do you recall the
11 purpose of this loan for \$3,025,000?

12 A. I think it was on Ken's house that he had the
13 loan with the bank.

14 Q. And what house would that be?

15 A. A house that Ken owned in Manalapan.

16 MS. MARASCO: I'm going to hand a related
17 document to the court reporter. This will be
18 Exhibit 4.

19 (Plaintiff's Exhibit No. 4 was marked for
20 identification.)

21 BY MS. MARASCO:

22 Q. Have you seen this document before? You can
23 keep 3 and 4 out together. We can talk about them in
24 tandem. Have you seen this document before?

25 A. I guess I have. It's been awhile, though. I

1 don't remember it, but yes.

2 MR. BERNFELD: Just let me instruct you not to
3 guess. You're being asked for your knowledge. If you
4 don't know, you answer that. If you do know, you
5 answer what you know.

6 THE WITNESS: Okay.

7 BY MS. MARASCO:

8 Q. So at the top of this document it reads
9 Collateral Assignment of Life Insurance Policy. And it
10 appears to have the same date -- the 8th day of October,
11 2008 -- same day as the Compliance Agreement. And this
12 agreement is by and between Ken Brown, KBCB, Paradise Bank,
13 Nationwide Life Insurance, and the Ken-Wen Family Limited
14 Partnership; is that correct? Am I reading that correctly?

15 A. Yes.

16 Q. And then at the second whereas clause it says,
17 "Borrower Ken Brown and Trustee are the owners of those
18 three certain life insurance policies issued by Nationwide
19 Life Insurance." And then "1, 2, and 3, insuring the
20 lives, respectively, of Wendy E. Brown, Violet M. Werner,
21 and Kenneth W. Brown." Is that correct?

22 A. Yes.

23 Q. Were these policies held by Ken-Wen?

24 A. I'm not sure if all of them were with Ken-Wen.

25 Q. But we discussed earlier you think the policy

1 for Violet M. Werner was held by Ken-Wen?

2 A. Yes.

3 Q. And is this still in connection -- do you think
4 that this was in still in connection with the property that
5 Mr. Brown owned that we just discussed?

6 A. I'm not sure if this was with the property or
7 not. That's -- you know, it's been awhile. I don't know
8 if it was his property or a golf course. Because he had a
9 golf course with KBCB, two golf courses with KBCB. So I'm
10 not sure. I just don't remember.

11 Q. Did Ken-Wen ever receive insurance proceeds
12 from the life insurance policy for Violet M. Werner?

13 A. What was that question again?

14 Q. Did Ken-Wen ever receive the proceeds of a life
15 insurance policy for Violet M. Werner?

16 A. No.

17 Q. Okay. And that policy was pledged in
18 connection with this collateral agreement; is that right?

19 A. Yes.

20 Q. Is Mr. Werner still alive?

21 A. No.

22 Q. Do you know whether this loan was ever
23 satisfied?

24 A. I believe it was, yes.

25 Q. In exchange for pledging the life insurance

1 policy held by Ken-Wen, did Ken-Wen receive anything?

2 MR. BERNFELD: Object to the form.

3 A. Yeah, I don't know what you mean.

4 BY MS. MARASCO:

5 Q. If you don't understand my question, just ask
6 me, and I will rephrase. So Ken-Wen pledged a life
7 insurance policy on Violet Werner in connection with this
8 collateral agreement; is that right?

9 A. Yes.

10 Q. In exchange for pledging that agreement, did
11 Ken-Wen receive anything in return?

12 A. No.

13 Q. Okay. You can put those documents to the side
14 for now. We discussed a little bit earlier that Ken-Wen
15 came to hold an investment account at BLMIS; is that right?

16 A. Yes.

17 Q. And how did it come to hold that account?

18 A. The account was originally in a trust where my
19 mother was trustee. It was a 1990 trust. And then it got
20 transferred to Ken-Wen when this partnership was first
21 done. But it came from my father.

22 MS. MARASCO: I'm going to hand a document to
23 the court reporter, and this will be marked as
24 Exhibit 5.

25 (Plaintiff's Exhibit No. 5 was marked for

1 identification.)

2 BY MS. MARASCO:

3 Q. Have you seen this document before?

4 A. Yes.

5 Q. Do you recognize the handwriting?

6 A. Yes.

7 Q. And whose handwriting is it?

8 A. Ken Brown's.

9 Q. At the bottom of the page do you see a
10 signature there?

11 A. Yes.

12 Q. NS whose signature is that?

13 A. It's my mother's, Violet Werner.

14 Q. But you testified earlier that this is Ken
15 Brown's handwriting?

16 A. Yes.

17 Q. And what is the date on this document?

18 A. April 16th of 2000.

19 Q. And do you know what this document was intended
20 to do, what its purpose was?

21 A. It was to I guess transfer the assets from the
22 Madoff account.

23 Q. So I'm just going to read the first sentence.

24 It says, "Please be advised that my daughter has authorized
25 as beneficiary to terminate the 3/21/1990 trust and

1 distribute the assets in kind to a retitled account named
2 as follows: A Joint Account of Tenants By the Entireties:
3 Kenneth W. Brown and Wendy Brown, Tenants by the
4 Entireties," with an address. And then it further
5 indicates that a copy of the authorization is attached,
6 which if you turn to Page 2, you see that there. Do you
7 disagree with anything I just said?

8 A. No.

9 Q. Okay. So it appears that the trust terminated,
10 and that the account was transferred first to Ken Brown and
11 Wendy Brown as Tenants by the Entireties." Is that
12 correct?

13 A. Yes.

14 Q. And what prompted the termination of the trust?

15 A. The trust itself was a ten-year trust, and it
16 terminated in 2000.

17 Q. And the trust funds were held in an account
18 with BLMIS; is that right?

19 A. I believe so.

20 Q. Was it your understanding that the funds -- the
21 trust funds that were in the BLMIS account were also
22 invested by Madoff?

23 A. Yes.

24 Q. And when the trust was terminated, did the
25 funds get transferred to a new account or was the account

1 simply retitled?

2 A. It was just retitled.

3 Q. Okay. Do you recall how much was in the
4 account when it was retitled?

5 A. No. I wouldn't know the exact amount.

6 Q. Was it over \$100,000?

7 A. I'm sure it was, yes.

8 Q. So when the account was held by you and Ken
9 Brown as Tenants By the Entireties, did one or both of you
10 deposit additional funds into the account?

11 A. Into which account?

12 Q. Into the account that we've been discussing.
13 When the account was retitled -- the trust terminated. The
14 account was retitled to Ken Brown and Wendy Brown as
15 Tenants by the Entireties. Are you following?

16 A. Uh-huh.

17 Q. During that time after it became yours as
18 Tenants by the Entireties, did one or both of you deposit
19 money into the account?

20 A. Not that I recall.

21 Q. Okay. And as we just discussed, there were
22 already funds in the account as a result of the termination
23 of the trust; is that right?

24 A. Funds in which account?

25 Q. When I say "the account," I'm referring to the

1 BLMIS account.

2 A. Oh, okay.

3 Q. So that account, just to be clear, when the
4 trust terminated, the funds were in the BLMIS account; is
5 that right?

6 A. Yes.

7 Q. And then the account was retitled in the name
8 of Ken Brown and Wendy Brown as Tenants by the Entireties;
9 is that right?

10 A. Yes.

11 Q. Okay. So when you held it as Tenants by the
12 Entireties, did either you or Ken deposit additional funds
13 into the BLMIS account?

14 A. Oh, into the BLMIS account, no.

15 Q. Okay. Is there another account that you were
16 thinking of?

17 A. I thought you meant when -- I don't know. I
18 didn't know what account you meant.

19 Q. Okay. Just on the second page of this Exhibit
20 No. 5, is that your signature on the right-hand side of the
21 page?

22 A. Yes.

23 Q. Okay. So we discussed the date of this
24 document was April 16th, 2000; is that right?

25 A. Yes.

1 Q. And we looked at the limited partnership
2 agreement before. And that was dated June 14th, 2000; is
3 that right?

4 A. Yes.

5 Q. You can look at it if you want to check. I
6 think that was Exhibit 2.

7 A. Yes.

8 Q. Okay.

9 MS. MARASCO: So then I'm going to hand another
10 document to the court reporter to mark as Exhibit 6.

11 (Plaintiff's Exhibit No. 6 was marked for
12 identification.)

13 BY MS. MARASCO:

14 Q. Have you seen this document before?

15 A. I guess I did because I signed it, but I don't
16 remember. It's been awhile.

17 Q. And you see your signature on the bottom
18 left-hand side of the page?

19 A. Yes.

20 Q. And what's the date of this document?

21 A. August 10th, 2000.

22 Q. And do you know what the purpose of this
23 document is?

24 A. To change the account and put it into
25 Ken-Wen -- from Ken and Wendy Brown to Ken-Wen.

1 Q. So this is transferring the account from Ken
2 Brown and Wendy Brown as Tenants by the Entirety into the
3 Partnership that had been formed in June; is that right?

4 A. Yes.

5 Q. Okay. And then at the bottom it says, "If you
6 have any questions, please call us at 1-800-881-4246."
7 Where did that 1-800 go?

8 A. That went to the company of K.W. Brown
9 Investments. That was their telephone number.

10 Q. Why did you change the account registration?

11 MR. BERNFELD: Object to form.

12 BY MS. MARASCO:

13 Q. You can answer.

14 A. Well, the Partnership was set up. So it was
15 changed into the partnership.

16 Q. Okay.

17 MS. MARASCO: I'm going to hand another
18 document to the court reporter. This, I believe, will
19 be Exhibit 7.

20 (Plaintiff's Exhibit No. 7 was marked for
21 identification.)

22 BY MS. MARASCO:

23 Q. Do you recognize this document?

24 A. I'm not sure. I don't remember it.

25 Q. Looking at it now, can you tell what it is?

1 MR. BERNFELD: What it purports to be? She
2 said she doesn't remember it.

3 A. It's a Partnership Account Agreement for
4 Ken-Wen.

5 BY MS. MARASCO:

6 Q. And do you see the account number at the top of
7 the page there. It says, "1EM226 30/40." Is that right?

8 A. Yes.

9 Q. And then underneath it says, "Ken-Wen Family
10 L.P., Limited?

11 A. Yes.

12 Q. And then under Ken Brown's signature at the
13 bottom of the page, is that your signature as well?

14 A. It looks to be my signature, although there's
15 no line for it.

16 Q. Okay.

17 A. And my name isn't mentioned as a general
18 partner in the above area.

19 Q. But we discussed earlier that you were a
20 general partner of Ken-Wen, right?

21 A. Yes.

22 Q. Okay. And then at the bottom of the last
23 paragraph there it says, "Bernard L. Madoff Investment
24 Securities is instructed to direct all notices or
25 communications, including demands, notices, confirmations,

1 reports, and statements of account for the Partnership in
2 connection with the Partnership account as follows." Did
3 the Ken-Wen Partnership ever receive such communications or
4 notices from BLMIS?

5 A. We got statements. And sometimes we would get
6 reports of how well the account was doing -- supposedly how
7 well it was doing.

8 Q. And the statements were different than the
9 reports?

10 A. No. The reports would just, you know, say "We
11 made 16 percent this quarter," or whatever the number was.

12 Q. So it was some sort of summary?

13 A. It came in quarterly.

14 Q. Was it like a summary of how the account was
15 performing?

16 A. Yes.

17 Q. Okay. And do you know why you may have signed
18 this document?

19 MR. BERNFELD: Object to form.

20 BY MS. MARASCO:

21 Q. You can answer.

22 A. I guess because I'm a general partner. I
23 really --

24 MR. BERNFELD: No guessing.

25 THE WITNESS: I'm not guessing.

1 A. Okay. I can't guess, so I don't know.

2 MS. MARASCO: Mr. Bernfeld, I'll remind you not
3 to instruct the witness.

4 MR. BERNFELD: I will instruct the witness on
5 the record that you are here to answer questions as to
6 your knowledge, and not to guess or speculate.

7 MS. MARASCO: And that's consistent with the
8 instructions we discussed at the beginning. I'm not
9 asking you to guess.

10 THE WITNESS: Okay.

11 MS. MARASCO: But if you don't understand my
12 question, I would ask that you ask me to rephrase.

13 A. Well, like I said, I don't remember exactly
14 signing it. So --

15 BY MS. MARASCO:

16 Q. And that's fine. That's okay.

17 A. Okay. Yeah, I'm not sure it's my signature. I
18 mean, it looks like it could be my signature, but I'm not
19 positive.

20 Q. I'm sorry. I understand that Mr. Bernfeld is
21 noting something about the document. Is there something
22 that you want to discuss about this document?

23 A. It's just that the signature looks a lot like
24 Ken Brown's signature that he might have signed for me in
25 my absence, but, you know, I can't say that because I don't

1 know for sure.

2 Q. Okay.

3 MS. MARASCO: I'm going to hand another
4 document to the court reporter. It's going to be
5 marked as Exhibit 8.

6 (Plaintiff's Exhibit No. 8 was marked for
7 identification.)

8 BY MS. MARASCO:

9 Q. If you'll flip through it. Once you've had an
10 opportunity to review it, just let me know if you are
11 familiar with this document or otherwise recognize it.

12 MR. BROWN: Can we take a break?

13 MS. MARASCO: A question is pending.

14 A. Wait, what was the question now?

15 BY MS. MARASCO:

16 Q. Do you recognize this document?

17 A. I'm not sure. I don't know if I remember
18 seeing this before. But I can see what it is.

19 Q. Looking at it now, can you tell me what you
20 believe it to be?

21 MR. BERNFELD: Object to the form.

22 BY MS. MARASCO:

23 Q. And you can answer.

24 A. It's the answer to the lawsuit, apparently,
25 with Madoff.

1 Q. So at the top, the underlined language, do you
2 see it says, "Answers to Trustee's First Set of Requests
3 for Admission by Defendants Ken-Wen Family Limited
4 Partnership."

5 A. Yes.

6 Q. I read that correctly?

7 A. Yes.

8 Q. So the Trustee had served certain requests for
9 admission. And these were the responses thereto filed by
10 the Partnership. Did you work with your attorney to
11 prepare these responses?

12 MR. BERNFELD: I'm going to object to the
13 question. And I'm going to direct the witness not to
14 answer with respect to discussions or conversations
15 you may have had with counsel.

16 BY MS. MARASCO:

17 Q. I am not asking for the content of any
18 conversations. But I am asking whether or not you
19 participated in preparing this document?

20 A. I didn't prepare the document. My lawyer
21 prepared the document.

22 Q. Did you assist to provide information that was
23 used to prepare the responses?

24 A. Yes.

25 MR. ROHER: Can we take our break now?

1 MS. MARASCO: When I finish this document.

2 BY MS. MARASCO:

3 Q. If you look at Admission No. 16, that's on Page
4 8, No. 16 says, "Admit that the account was initially
5 funded by an inter-account transfer from BLMIS account in
6 the amount of 535,163, and that's dollars." Did I read
7 that correctly?

8 A. Yes.

9 Q. And the response to that request for admissions
10 says, "Admits, upon information and belief." Did I read
11 that correctly?

12 A. Yes.

13 Q. Okay. And what do you understand that response
14 to mean?

15 MR. BERNFELD: Object to the form. You can
16 answer, if you can.

17 A. I believe that means that that's maybe what the
18 value of the account was. But I don't know what time
19 period that was. It just says that it has that amount.

20 BY MS. MARASCO:

21 Q. We discussed earlier that the account -- when
22 the trust terminated in 2000, it was transferred to Ken-Wen
23 and -- I'm sorry, to Ken Brown and Wendy Brown as Tenants
24 by the Entirety, and then retitled in the name of the
25 Ken-Wen Partnership; is that right?

1 A. Yes.

2 Q. When the account was ultimately retitled in the
3 name of the Ken-Wen Partnership, was the balance of the
4 account \$535,163?

5 A. I don't think so.

6 Q. Why not?

7 A. Because I think this is the amount that came
8 way back before then when it was a different kind of
9 account that my father had set up with an investor from
10 Minnesota. And it could be that amount was from then, and
11 then it was transferred over into this account -- into the
12 account that it presently was, the BLMIS account.

13 Q. Who was the investor from Minnesota?

14 A. Oh, gosh. His name escapes me.

15 Q. Was it Melvin Mander? (Phonetic.)

16 A. No.

17 MR. BERNFELD: I can prompt her if you'd like.

18 MS. MARASCO: No, that's okay.

19 MR. BERNFELD: Okay.

20 A. It will probably come to me.

21 MR. BERNFELD: You answered. This was what
22 number?

23 THE COURT REPORTER: 8.

24 BY MS. MARASCO:

25 Q. So this request for admission states that "The

1 account was initially funded by an inter-account transfer
2 from BLMIS account in the amount of \$535,163." And you --
3 by admitting that, what do you understand that to mean?

4 MR. BERNFELD: Object to the form. There is
5 nothing in here that says this person admitted what's
6 in this Ken-Wen admission.

7 MS. MARASCO: Mr. Bernfeld, Ms. Brown is here
8 today as a 30(b)(6) representative on behalf of the
9 Ken-Wen Limited Partnership. And --

10 MR. BERNFELD: Then ask her about Ken-Wen. You
11 asked her about her personally. So I object to the
12 form.

13 BY MS. MARASCO:

14 Q. What does the Ken-Wen Partnership understand
15 this to mean?

16 MR. BERNFELD: Which paragraph?

17 MS. MARASCO: We're still looking at Request
18 For Admission No. 16.

19 A. Well, it says that it was initially funded by
20 an inter-account transfer from BLMIS. But I don't know if
21 that's the amount that was transferred. I have no idea.

22 BY MS. MARASCO:

23 Q. That's fine. I just want to understand what
24 you understand it to mean on behalf of Ken-Wen.

25 Okay. If you'll look down to Admission No.

1 17, that states, "Admit that of the \$535,163 transferred
2 from another BLMIS account into the Account January 4th,
3 1993, \$340,000 consisted of principal." And that is
4 denied. Did I read that correctly?

5 A. Yes.

6 Q. So based on our conversation earlier, would you
7 agree with me that this appears to state that on or about
8 January 4th, 1993, there is about \$535,163 that was
9 transferred to the account?

10 MR. BERNFELD: Object to the form.

11 A. It looks like that's what it showed. The
12 \$535,163 looks like is what the account consisted of on
13 January 4th of 1993.

14 BY MS. MARASCO:

15 Q. Okay. I think we're on the same page. And
16 then the requests asked for an admission that 340,000 of
17 that amount, of that \$535,160, consisted of principal. And
18 that was denied.

19 A. Yes.

20 Q. Can you tell me why?

21 A. No. I don't know.

22 Q. Okay.

23 A. Oh, and the name I was trying to think of --

24 THE WITNESS: Oh, I shouldn't do that?

25 MR. BERNFELD: There's no question pending.

1 THE WITNESS: Okay. It just came to me.

2 That's all.

3 MS. MARASCO: Well, I'll ask you not to
4 interrupt the witness as she's answering to the extent
5 that she is answering.

6 MR. BERNFELD: She answered. And she then
7 started to volunteer something else. And I'm telling
8 her, and I'm going to continue to tell her, there's no
9 question pending when there is no question pending.
10 Is there a question pending?

11 MS. MARASCO: There is not, Mr. Bernfeld.

12 MR. BERNFELD: Okay.

13 MS. MARASCO: But I would ask you not to
14 interrupt your client.

15 MR. BERNFELD: Please, don't tell me what
16 advice I can give to my client when there's no
17 question pending.

18 MS. MARASCO: Okay. I understand that
19 Mr. Roher and Mr. Brown would like to take a break.
20 So we'll take a ten-minute break.

21 MR. BERNFELD: Fine.

22 MR. BROWN: Thank you.

23 (Recess taken from 10:48 a.m. to 11:02 a.m.)

24 MS. MARASCO: We are back on the record. It's
25 11:02.

1 BY MS. MARASCO:

2 Q. During the break did you have any discussions
3 with counsel regarding the substance of your testimony?

4 MR. BERNFELD: I'll direct the witness not to
5 answer.

6 MS. MARASCO: Basis?

7 MR. BERNFELD: That I'm not directing her not
8 to.

9 MS. MARASCO: Attorney-client privilege.

10 MS. MARASCO: I am asking whether she did or
11 not. I am not asking for the substance.

12 MR. BERNFELD: I'm directing her not to.

13 MS. MARASCO: I will remind you for any breaks
14 going forward, you're not to discuss the content of
15 your testimony with your attorney during a break.

16 MR. BERNFELD: And I'm going to ask you not to
17 instruct my client, what she should or shouldn't do
18 with me. That's my job, not yours.

19 MS. MARASCO: Okay. This is a deposition. And
20 so there are certain rules that apply.

21 MR. BERNFELD: Yes.

22 MS. MARASCO: And so I am just reminding her of
23 those rules.

24 MR. BERNFELD: If you disagree with what I've
25 stated on the record, you can put your position on the

1 record. But don't direct your comments to my client
2 as an instruction from you. And if we have a
3 disagreement, somebody else will resolve it. But I
4 won't resolve it, and neither will you, by telling my
5 client to do something or not do something.

6 BY MS. MARASCO:

7 Q. So before we the break we were talking about
8 the amount in the account that was held by Ken-Wen. In
9 your capacity as the 30(b)(6) witness, what was the maximum
10 amount that the account ever held during its life?

11 A. I would not know an exact amount of what it
12 held.

13 MR. BERNFELD: That's an answer.

14 BY MS. MARASCO:

15 Q. Would you know a cap on the amount, up to a
16 certain amount?

17 A. I don't want to speculate because I don't know
18 the exact amount of how high it would have been or low it
19 would have been. I really don't know.

20 MR. BERNFELD: And I object to the form.

21 MS. MARASCO: I would ask you not to interrupt
22 your client.

23 BY MS. MARASCO:

24 Q. During life of the account when it was held by
25 Ken-Wen, did Ken-Wen ever deposit funds into the BLMIS

1 account?

2 A. No.

3 MS. MARASCO: I'm going to hand --

4 MR. BERNFELD: Just one second.

5 MS. MARASCO: I'm going to hand two documents
6 to the court reporter, and I'm going to ask her to
7 mark them as Exhibit 9 and 10.

8 (Plaintiff's Exhibits No. 9 and 10 were marked
9 for identification.)

10 BY MS. MARASCO:

11 Q. So I've just handed you two documents, which
12 have been marked Exhibits 9 and 10. 10 is right here. And
13 just for clarify so that we're on the same page, the first
14 amended complaint that was filed by the Trustee is marked
15 as Exhibit 9.

16 A. I think that's an additional one. I got two.

17 MR. BERNFELD: No, no, you should have two
18 documents.

19 MS. MARASCO: She has one that's marked.

20 MR. BERNFELD: Oh, okay.

21 THE WITNESS: And I have two for No. 9 for some
22 reason.

23 BY MS. MARASCO:

24 Q. Okay. So just to clarify that, Exhibit 9
25 should be the first amended complaint that was filed by the

1 Trustee, and then Exhibit 10 would be the answer to the
2 amended complaint that was filed by the Ken-Wen Limited
3 Partnership and Wendy Brown.

4 A. Okay.

5 Q. Is that what you have there?

6 A. Yes.

7 Q. Okay. So we'll focus on Exhibit 10. And to
8 the extent we need to refer the actual allegations in the
9 complaint, we'll refer to Exhibit 9. But looking at
10 Exhibit 10, if you look to Paragraph 68, this is under the
11 caption Sixth Affirmative Defense. So it won't necessarily
12 relate to specific allegations in the complaint. I'll
13 represent that to you. And 68 reads, "As a result, upon
14 information and belief, millions of dollars that should
15 have been credited by the Trustee as additional principal
16 in the Account were disallowed and not included in the
17 Trustee's calculation of Defendants' BLMIS account
18 balance." What do you understand that to mean?

19 MR. BERNFELD: Object as to form. And I
20 suggest it's incomplete and misleading unless you
21 refer to the paragraph immediately preceding. Because
22 68 says, "As a result."

23 BY MS. MARASCO:

24 Q. Ms. Brown -- Ms. Werner, I apologize, if you
25 can then refer to Paragraph 67. If you can read that, and

1 then read 68.

2 MR. BERNFELD: Thank you.

3 BY MS. MARASCO:

4 Q. Once you've completed that, if you can just let
5 me know what you understand that to mean, if anything?

6 MR. BERNFELD: And I have still will have an
7 objection as to form, but you can answer.

8 A. It looks like they didn't take the total amount
9 that might have been deposited in the account when they did
10 this as far as the principal one.

11 BY MS. MARASCO:

12 Q. And we just discussed before we started looking
13 at the exhibits -- you testified earlier that Ken Brown and
14 Wendy Brown as Tenants by the Entirety never invested funds
15 into the account. Do you recall that?

16 A. Yes.

17 Q. And then we just discussed that the Ken-Wen
18 Limited Partnership never invested funds into the BLMIS
19 account; is that right?

20 A. Yes.

21 Q. So given in your Tenancy by the Entireties
22 capacities, and in your partnership capacities, that you
23 never deposited funds into the BLMIS account, can you
24 explain the calculation that is referenced here in
25 Paragraph 68?

1 MR. BERNFELD: You're asking the witness for a
2 legal conclusion based on a pleading. I object as to
3 form.

4 MS. MARASCO: I am asking for her understanding
5 of what Paragraph 68 in connection with the Sixth
6 Affirmative Defense means.

7 BY MS. MARASCO:

8 Q. Or your understanding of what it means?

9 MR. BERNFELD: If you know.

10 A. Well, the account was taken over in 2000 by
11 Ken-Wen. Before that, this account was in existence for
12 many years. And I'm not sure the amount that was invested
13 by my father into the account over those years. But I'm --
14 from my knowledge, I think he had invested for many years
15 before that, maybe even as much as in the '70s or '80s with
16 Madoff. So any money that might have been in there before
17 maybe wasn't taken into account when this was -- when this
18 document was done.

19 BY MS. MARASCO:

20 Q. We discussed earlier that the account that
21 Ken-Wen came to hold was simply retitled from a prior
22 account; is that right?

23 A. Yes.

24 Q. So the account that you were just referring to
25 that your father held, that was also an account with BLMIS;

1 is that right?

2 A. Yes.

3 Q. Okay. So the funds that were in the account
4 when your father held it were also purportedly invested by
5 Madoff; is that correct?

6 A. Yes.

7 Q. Okay. So in connection with that investment,
8 the funds that were deposited by your father prior to
9 Ken-Wen holding the account were invested and/or increased
10 or decreased as a result of those investments; is that
11 right?

12 MR. BERNFELD: Object to form.

13 BY MS. MARASCO:

14 Q. Your father invested money into the account is
15 what you just said?

16 A. Yes.

17 Q. Okay. And the moneys that were invested were
18 purportedly in the market; is that right?

19 A. According to the statements we received.

20 Q. Okay. And so as a result of being purportedly
21 in the market, those funds realize a profit as a result of
22 the purported trading; is that correct?

23 A. I'm not sure if they always received a profit
24 or, you know, before it was Ken-Wen. I don't know what was
25 going on in the account.

1 Q. So whatever happened in the account prior to it
2 being retitled was then just simply retitled and Ken-Wen
3 had whatever the account previously had; is that right?

4 A. Yes.

5 Q. Okay. So we don't actually need to refer to
6 the complaint, so you can put that and the answer aside.

7 When Ken-Wen held the account, did the
8 Partnership withdraw funds from the account?

9 A. There was some withdrawals made, yes.

10 Q. And how did the Partnership determine when to
11 withdraw funds?

12 A. I didn't make those decisions. I don't believe
13 I made the decision. I think Ken did.

14 Q. Were you consulted when funds were withdrawn?

15 A. Not always, no.

16 Q. Did you personally ever make a request for
17 withdrawal?

18 A. Not that I recall.

19 Q. My understanding from Mr. Brown's testimony was
20 that Ms. Shaw also monitored the account; is that correct?

21 A. She just provided the tax returns for the
22 Partnership.

23 Q. Did she monitor the account's performance
24 during its life at any point?

25 MR. BERNFELD: If you know.

1 A. I don't know.

2 BY MS. MARASCO:

3 Q. Okay. Did you ever receive advice as to when
4 to withdraw funds from the account? I'm not asking from
5 counsel. I'm asking from anyone.

6 A. What do you mean "when"? Like if we needed to?

7 Q. Did anyone ever instruct you to withdraw funds
8 from the account?

9 A. I don't remember.

10 Q. Okay. And to make a withdrawal from the
11 account, you had to make a request; is that right?

12 A. I would think so.

13 Q. And to whom might you make that request?

14 MR. BERNFELD: Object as to form, but you can
15 answer?

16 A. I don't remember making a request. But I would
17 assume it would be to contact someone in the offices of
18 Bernie Madoff's office.

19 BY MS. MARASCO:

20 Q. If, for example, Ken made a request for a
21 withdrawal, would you receive notice of that request?

22 A. I don't remember.

23 Q. And when a request was made, where might the
24 funds have been deposited?

25 MR. BERNFELD: Object to the form of the

1 question.

2 A. I would assume into the Ken-Wen bank account,
3 but...

4 BY MS. MARASCO:

5 Q. Where did Ken-Wen hold bank accounts?

6 A. Paradise Bank, RBC, and Bank of America. Not
7 all at the same time, but that's where the accounts were
8 previous.

9 Q. Do you recall when Ken-Wen held the Bank of
10 America account?

11 A. I don't remember the years.

12 Q. Between 2000 and 2012 when the Partnership was
13 dissolved, did the Partnership hold any other bank
14 accounts -- well, did it hold any accounts at banks other
15 than RBC, Paradise, or Bank of America?

16 A. I don't believe so.

17 Q. And just to circle back on that. We discussed
18 a little bit earlier that the Partnership was dissolved in
19 2012; is that right?

20 A. Yes.

21 Q. Did you take affirmative steps to dissolve the
22 Partnership?

23 MR. ROHER: Can I just ask one clarification?

24 MS. MARASCO: A question is pending.

25 MR. ROHER: I'm going to just object. Can I

1 give -- object to the form. If you want the reason,
2 I'll give you the reason.

3 MS. MARASCO: Can we wait until the answer?

4 MR. BERNFELD: I'll object to the form too.

5 BY MS. MARASCO:

6 Q. Okay. You can answer.

7 A. I don't remember personally taking steps to
8 dissolve it. I think it just happened when, you know,
9 everything that was -- there was nothing in the account to
10 keep it going.

11 Q. Were steps ever taken by anyone to dissolve the
12 Partnership to your knowledge?

13 A. I don't know. I can't recall.

14 Q. In your capacity as a 30(b)(6) witness, has the
15 Partnership ever been formally dissolved?

16 MR. BERNFELD: If you know.

17 A. I don't know.

18 BY MS. MARASCO:

19 Q. You testified earlier -- and I believe you used
20 the word "dissolved" -- that the Partnership was dissolved
21 in 2012. What did you mean by that?

22 A. That there were no more filings on their behalf
23 of the Florida -- of the State to keep it open. I would
24 assume after that it's dissolved when you don't have -- you
25 don't pay your yearly fees to keep it going.

1 Q. Okay.

2 A. That's why I assume it's dissolved.

3 Q. So you stopped paying pays to the State or to a
4 specific agency; is that correct?

5 A. Yes.

6 Q. Okay.

7 MR. BERNFELD: And the "you" refers to Ken-Wen?

8 MS. MARASCO: The "you" refers to Ken-Wen, yes.

9 MR. ROHER: That's what my issue was. "You"
10 versus -- individually versus Ken-Wen. I don't
11 know -- I mean, I'm not trying to interrupt. And
12 forgive me. Right now are we currently conducting the
13 deposition just of the corporate rep or is this like
14 altogether.

15 MS. MARASCO: They are being conducted
16 simultaneously. To the extent that there is a
17 distinction, I will try to distinguish. If you think
18 I've not distinguished properly, just let know.

19 MR. ROHER: Well, that was basically my
20 objection. And again, not to be critical. Just for
21 clarity, I think it would be better when you say
22 "you," just to say "you individually." Just
23 because -- you know, that's all I'm saying?

24 MS. MARASCO: Understood.

25 BY MS. MARASCO:

1 Q. And just to follow up on that point, in or
2 about 2012, why did the Partnership stop paying the State
3 for the annual fees?

4 A. Because it wasn't necessary after that to
5 continue with the Partnership.

6 Q. What was the purpose of the Partnership's
7 existence following the resignation of Ken Brown as general
8 partner?

9 A. It was -- well, there was still investments in
10 Ken-Wen at that time for it to continue to be in existence.

11 Q. What kind of investments?

12 A. The same investments we've spoken of.

13 Q. And are you referring to the Sage properties,
14 the annuities, or anything like that?

15 A. Yes.

16 Q. I just want to be clear so that I'm
17 understanding what you're saying.

18 A. Yes.

19 MS. MARASCO: Yes, Mr. Bernfeld.

20 MR. BERNFELD: Just to be clear, are you
21 including or excluding the Madoff account with
22 Ken-Wen?

23 MS. MARASCO: The Madoff account was an asset
24 of the Ken-Wen Partnership.

25 MR. BERNFELD: Correct.

1 MS. MARASCO: Correct.

2 MR. BERNFELD: And Madoff didn't blow up until
3 December of '08. And --

4 MS. MARASCO: Are you testifying, Mr. Bernfeld?

5 MR. BERNFELD: I'm trying to clarify. If you
6 prefer that the record be ambiguous, that's okay with
7 me. I don't think that's what you want.

8 MS. MARASCO: Understood.

9 BY MS. MARASCO:

10 Q. So we just discussed earlier that Ken-Wen still
11 had investments after Mr. Brown resigned as general
12 partner; is that right?

13 A. Yes.

14 Q. Okay. And we discussed those investments as
15 including the interests and real property which were, I
16 think, we described as the Sage investments; is that right?

17 A. Yes.

18 Q. And then we discussed an annuity; is that
19 right?

20 A. Yes.

21 Q. And then there were insurance policies that we
22 discussed earlier, that those were pledged as collateral
23 for a \$3 million loan by KBCB; is that right?

24 A. Yes.

25 Q. Okay. And then the only other asset that I

1 think we've discussed would be the BLMIS account; is that
2 right?

3 A. Yes.

4 Q. Did Ken-Wen have any other assets that I've not
5 just mentioned?

6 A. Like I said, I think there was a stock account
7 as well.

8 Q. Other than that stock account, is there
9 anything else?

10 A. Not that I recall.

11 Q. Okay. The BLMIS account was an asset of the
12 Partnership; is that right?

13 MR. BERNFELD: Can we have a time reference?

14 BY MS. MARASCO:

15 Q. At any point was the BLMIS account not an asset
16 of the Partnership?

17 MR. BERNFELD: I'm going to object to the form.

18 BY MS. MARASCO:

19 Q. You can answer.

20 A. Well, it wasn't before it become part of
21 Ken-Wen's assets before 2000.

22 Q. What happened to the account upon the
23 "dissolution" of the Partnership? When did the account
24 cease to exist?

25 A. Which account?

1 Q. The BLMIS account.

2 A. December of 2008.

3 Q. December of 2008?

4 A. When, you know, everything blew up with Madoff.
5 There was still an account there. And after that, I guess
6 there was no longer an account.

7 MS. MARASCO: I'm going to hand another
8 document to the court reporter to mark as Exhibit 11.
9 (Plaintiff's Exhibit No. 11 was marked for
10 identification.)

11 BY MS. MARASCO:

12 Q. Have you seen this document before?

13 A. I believe I saw it in Ken's deposition.

14 Q. And what's the date on this document?

15 A. April 20th -- my birthday -- 2005.

16 MR. BERNFELD: Where? Okay.

17 BY MS. MARASCO:

18 Q. And the letterhead on this document is K.W.
19 Brown Investments, and it's addressed to Bernard L. Madoff
20 Investments Securities, LLC; is that correct?

21 A. Yes.

22 Q. And taking a look at this document now, do you
23 know what it is or purports to be?

24 MR. BERNFELD: Object as to form. The document
25 speaks for itself.

1 A. Yes. It's an agreement with RBC Bank to have a
2 beneficial interest in the account.

3 Q. So if I look at the first sentence it says, "As
4 per our preliminary discussions, the Ken-Wen Family Limited
5 Partnership has granted a control and interested party
6 agreement with RBC Centura." Did I read that correctly?

7 A. Yes.

8 MR. BERNFELD: So stipulated.

9 A. That's what it says.

10 BY MS. MARASCO:

11 Q. Why did Ken-Wen Limited Partnership grant a
12 beneficial interest to RBC Centura?

13 MR. BERNFELD: Object as to form.

14 A. I really don't know.

15 BY MS. MARASCO:

16 Q. You testified earlier that the Partnership held
17 an account at RBC Centura Bank; is that right?

18 A. For Ken-Wen, yes.

19 Q. And that was an account held by the
20 Partnership; is that right?

21 MR. BERNFELD: If you can clarify, you mean a
22 bank account or a securities account or both or
23 neither?

24 MS. MARASCO: We are talking about RBC in the
25 context of a bank account.

1 MR. BERNFELD: Okay.

2 BY MS. MARASCO:

3 Q. The Partnership held a bank account at RBC
4 Centura; is that right?

5 A. Yes.

6 Q. Did the Partnership hold any other accounts
7 with RBC Centura?

8 A. Yes.

9 Q. What kind of accounts?

10 A. Personal accounts, business accounts.

11 MR. BERNFELD: No, the question was
12 "Partnership," right?

13 A. Oh, not with the Ken-Wen Partnership, no.

14 BY MS. MARASCO:

15 Q. In your personal capacity did you have a bank
16 account with RBC Centura?

17 A. I believe we had a joint account with RBC, yes.

18 Q. Okay. In your personal capacities were funds
19 owed by you or Mr. Brown to RBC Centura?

20 A. I don't remember if we had loans with them
21 personally, if that's what you mean.

22 Q. Okay. Turning back to the RBC bank account
23 that was held by the Partnership, who had access to the RBC
24 bank account?

25 A. Myself and Ken Brown.

1 Q. Would anyone else have access to that account?

2 A. No.

3 Q. Did the Partnership receive regular or
4 contemporaneous account statements for the RBC bank
5 account?

6 A. Yes.

7 Q. Did you review them?

8 A. Yes.

9 Q. Regularly, sporadically, any of those?

10 A. When I received them, yes.

11 Q. So was it your practice to regularly review
12 your bank statements for the Partnership?

13 A. Yes.

14 MS. MARASCO: I'm going to hand a document to
15 the court reporter to mark as Exhibit 12.

16 (Plaintiff's Exhibit No. 12 was marked for
17 identification.)

18 BY MS. MARASCO:

19 Q. Do you recognize this document?

20 A. Oh, it's a fax.

21 Q. And who is it from?

22 A. From the Offices of K.W. Brown Investments.

23 Q. And then on the first full line there it says,
24 "To" -- blank -- and then "From." Do you see what it says
25 there?

1 A. Yeah.

2 Q. What does it say?

3 A. Yeah, there's no name there.

4 MR. BERNFELD: She meant this.

5 A. But it's from myself, yes.

6 BY MS. MARASCO:

7 Q. And is it addressed to "Company: Madoff." Did
8 I read that correctly?

9 A. Yes.

10 Q. And then it references Account No. 1-EM226-3-0,
11 underneath, "Ken-Wen." Is that correct?

12 A. Yes.

13 Q. Is this your handwriting?

14 A. Yes, except I didn't write the Ken-Wen in
15 there.

16 Q. Understood. And it's a little bit hard to
17 read, but what is the date of this document?

18 A. February 10th, I think '06.

19 Q. And I'm looking at the notes. And it says,
20 "Please send me a check for \$250,000 to my home address for
21 Ken-Wen Account No. 1-EM226-3-0. Thanks for your
22 cooperation." Did I read that correctly?

23 A. Yes.

24 Q. Do you recall why you requested a check for
25 \$250,000?

1 A. No, I don't remember.

2 Q. Do you recall whether you received those funds?

3 A. Not at this point in time I don't remember.

4 MS. MARASCO: I'm going to hand a document to
5 the court reporter, and this will be Exhibit 13.

6 (Plaintiff's Exhibit No. 13 was marked for
7 identification.)

8 BY MS. MARASCO:

9 Q. Do you recognize this document?

10 A. That's for the 250,000, yes.

11 Q. And it's a check from Bernard L. Madoff to the
12 Ken-Wen Family Limited Partnership dated 2/16/2006; is that
13 correct?

14 A. Yes.

15 MR. BERNFELD: Just add "LTD" to your
16 description, what the check was payable to.

17 BY MS. MARASCO:

18 Q. Check was payable to Ken-Wen Family LP LTD.

19 MR. BERNFELD: Correct.

20 BY MS. MARASCO:

21 Q. Is there any distinction between Ken-Wen Family
22 Limited Partnership and Ken-Wen Family LP LTD?

23 MR. BERNFELD: I'm going to object. You're
24 asking the witness to give you a legal conclusion as
25 to "Is there a different between the two?"

1 MS. MARASCO: I'm asking for her knowledge.
2 Because you made the point of distinguishing, I'm
3 asking if there is a difference.

4 MR. BERNFELD: I'm just correcting what you
5 stated. I was not saying --

6 MS. MARASCO: Thank you, Mr. Bernfeld. I'm
7 going to ask the witness.

8 BY MS. MARASCO:

9 Q. Is Ken-Wen Family Limited Partnership to your
10 knowledge the same thing as Ken-Wen Family LP LTD?

11 MR. BERNFELD: I'm going to object to form.

12 BY MS. MARASCO:

13 Q. You can answer.

14 A. Well, it's one and the same.

15 Q. Okay. Thank you. And what is the amount of
16 this check?

17 A. 250,000.

18 Q. Okay. And then do you see the account
19 referenced in the bottom left-hand corner?

20 A. Account reference? Oh, yes.

21 Q. Do you see where it says "1-EM226-3"?

22 A. Yes.

23 Q. And then if you turn to the second page --

24 MR. BERNFELD: Did we have a description of who
25 the check was from?

1 MS. MARASCO: Yes, I did, Mr. Bernfeld.

2 MR. BERNFELD: And humor me, who is it from?

3 Because I think there's --

4 MS. MARASCO: I'm going to ask you to please be
5 respectful of the fact that I'm asking the questions
6 to Ms. Werner.

7 MR. BERNFELD: I'm being most respectful. I'd
8 like the record to be clear. This check is from
9 Bernard L. Madoff. You had previously defined Madoff,
10 the individual, as different from BLMIS. And your
11 reference, I believe, was to BLMIS.

12 MS. MARASCO: No. I said they may be used
13 interchangeably. I will read it again. "Madoff is
14 Bernard L. Madoff, the person, but may be used
15 interchangeably with BLMIS."

16 MR. BERNFELD: Well, then I object to that
17 instruction because it creates an absolute ambiguity
18 in the record for no reason.

19 MS. MARASCO: Okay.

20 BY MS. MARASCO:

21 Q. We are looking at the second page of the check.
22 If you look at the endorsement, do you see there where it
23 says, "Know your endorser - require identification." And
24 then it says, "Ken-Wen, deposit only." Is that correct?

25 A. Yes.

1 Q. And then the last four digits of the account
2 appear to be -- you can tell me if I'm wrong -- it appears
3 to be 6397. Is that what you see as well?

4 A. Yes.

5 Q. And then if you look at the typed text there on
6 the page -- it looks like it's upside down the way you have
7 it -- do you see where it says RBC Centura?

8 A. Yes. It does seem confusing that it came from
9 him personally.

10 MR. BERNFELD: No question pending.

11 BY MS. MARASCO:

12 Q. So based on that discussion, was it fair to say
13 that those funds were deposited into the RBC Centura
14 account?

15 A. Yes.

16 Q. Or a RBC Centura account, okay.

17 MS. MARASCO: I'm going to hand another
18 document to the court reporter, and this will be 14.

19 (Plaintiff's Exhibit No. 14 was marked for
20 identification.)

21 BY MS. MARASCO:

22 Q. Have you seen this document before, Ms. Werner?

23 A. It might have been in Ken's deposition.

24 Q. And looking at it now, what does it appear to
25 be?

1 A. A wire transfer request.

2 MR. BERNFELD: Object as to form.

3 BY MS. MARASCO:

4 Q. So it appears to a handwritten request for a
5 wire transfer of \$150,000. At the bottom right-hand corner
6 it just says "6/26." Does that appear to be Mr. Brown's
7 signature at the bottom?

8 A. Yes.

9 Q. And what is the reference information that's
10 written there at the top of the page?

11 A. Ken-Wen Family LP.

12 Q. Okay. And then it says, "Account 1EM226-3-0."
13 Is that correct, in that box there?

14 A. Yes.

15 Q. And then in the middle where there appears to
16 be bank account information, it has an X through it, and
17 then there's a separate notation, "Spoke to client. No
18 wire. 6/21 3:59." Did you speak to anyone at BLMIS in
19 connection with this request?

20 A. I can't recall now.

21 Q. Okay. Did you ever speak with anyone at BLMIS
22 at any point during the life of the Partnership?

23 A. I can't recall.

24 Q. And this is directed to the attention of Frank
25 DiPascali; is that correct?

1 A. Yes.

2 Q. Did you ever speak to Mr. Frank DiPascali?

3 A. I don't believe so.

4 Q. Okay. Do you know why Ken may have sent this
5 request --

6 MR. BERNFELD: Object to form.
7 DiPascali

8 Q. -- as opposed to you?

9 MS. MARASCO: If you let me finish my question,
10 please.

11 MR. BERNFELD: I thought you were.

12 A. I don't remember.

13 BY MS. MARASCO:

14 Q. And so we discussed that Ken-Wen had a bank
15 account with Paradise Bank; is that correct?

16 A. Yes.

17 Q. At the same time did it also hold a bank
18 account with RBC Centura?

19 A. I think we had it with RBC, and then we decided
20 to go with Paradise Bank.

21 Q. Does that mean that the RBC bank account was
22 closed at some point?

23 A. Yes.

24 Q. Okay. For clarity, the Paradise bank account
25 was also held by the Ken-Wen Family Partnership?

1 A. Yes.

2 Q. Okay. Who had the access to the Paradise Bank
3 account?

4 A. Myself and Ken Brown.

5 Q. Would anyone else have had access to that
6 account?

7 A. No.

8 Q. Did you receive regular or contemporaneous bank
9 account statements from Paradise Bank?

10 A. Yes.

11 Q. Did you review them?

12 A. Yes.

13 Q. So where it says, "Spoke to client, no wire,"
14 we discussed that you don't recall whether or not you spoke
15 to someone. Do you recall whether or not you received
16 funds by alternative means?

17 A. I don't recall or remember. So I don't know
18 what time period this was.

19 MR. BERNFELD: Just wait.

20 MS. MARASCO: And then I'm going to hand
21 another document to the court reporter, and this will
22 be Exhibit 15.

23 (Plaintiff's Exhibit No. 15 was marked for
24 identification.)

25 BY MS. MARASCO:

1 Q. Do you recognize this document?

2 A. I see it's a check for \$150,000, yes.

3 Q. And who is it from?

4 A. Bernard Madoff himself.

5 Q. And who is it addressed to?

6 A. Ken-Wen Family LP LTD.

7 Q. And what is the date of the check?

8 A. June 25th, I think '07. It's either a 5 or a

9 6. It might be June 26th. It's hard to read the date.

10 Q. And then in the exhibit we just discussed,
11 Exhibit 14, there was that notation, "Spoke to client, no
12 wire, 6/21, 3:59." And then at the bottom there was a
13 "6/26." And then you just indicated that this check was
14 dated 6/26/2007. Do you see whether or not this check was
15 endorsed?

16 A. It's not signed. It's just an account number.
17 Looks like Paradise Bank.

18 Q. And do you have any reason to believe that this
19 was deposited somewhere else than Ken-Wen's bank account at
20 Paradise Bank?

21 MR. BERNFELD: Object as to form.

22 A. No.

23 BY MS. MARASCO:

24 Q. Do you know why Bernard L. Madoff might be
25 writing a check to Ken-Wen for \$150,000?

1 MR. BERNFELD: Object as to form. You're
2 asking for speculation.

3 BY MS. MARASCO:

4 Q. You can answer.

5 A. The amount was requested by wire, and they
6 didn't wire. They sent a check. But why it's from him
7 personally, I have no idea.

8 Q. Do you recall what the Partnership did with the
9 \$150,000?

10 MR. BERNFELD: Object as to form.

11 A. I don't remember.

12 MS. MARASCO: I'm going to hand another
13 document to the court reporter. This will be
14 Exhibit 16.

15 (Plaintiff's Exhibit No. 16 was marked for
16 identification.)

17 BY MS. MARASCO:

18 Q. Ms. Werner, do you recognize this document?

19 A. I don't remember it. But I see --

20 MR. BERNFELD: She asked --

21 A. -- from what it says -- what it is.

22 BY MS. MARASCO:

23 Q. So at the top it appears to be titled
24 Partnership Resolution of Authority by Ken-Wen Family
25 Limited Partnership." And then the agreement appears to be

1 with Paradise Bank. Is that your understanding as well?

2 A. Yes.

3 Q. And what is the date that appears in that top
4 section there? Do you see where it says 6/20/07?

5 A. Yes.

6 Q. Okay. And then under "Agents," it's only
7 Kenneth Brown's name that's listed; is that right?

8 A. Yes.

9 Q. But is that your signature at the bottom of the
10 page?

11 A. It appears to be my signature.

12 Q. Okay. And then if you'll turn to the third
13 page, this is a similarly-titled document, Partnership
14 Resolution of Authority by Ken-Wen Family Limited
15 Partnership with Paradise Bank. This document appears to
16 be dated 7/13/07; is that correct?

17 A. Well, it supersedes the other document it looks
18 like.

19 Q. And you're reading that at the bottom of the
20 page there?

21 A. Yes.

22 Q. And it says, "This resolution supersedes
23 resolution dated 6/20/07; is that correct?

24 A. Yes.

25 Q. And in this superseded document -- superseding

1 document, the agents are identified as Kenneth Brown,
2 general partner, and Wendy Brown; is that correct?

3 A. Yes.

4 Q. And does that appear to be your signature at
5 the bottom of the page as well?

6 A. Yes.

7 Q. Do you recall why you may have executed this
8 document?

9 A. No, I don't.

10 Q. And then for "Powers granted," on Item 1 it
11 says, "Exercise all of the powers listed in this
12 resolution." And on that line there it says, "A/B." And
13 then if you look above, "A" is identified as Kenneth Brown
14 and "B" is identified as Wendy Brown. So it would appear
15 that this document gives both Ken Brown and Wendy Brown
16 plenary authority over the account.

17 MR. BERNFELD: Object to the form.
18 Partnership Resolution of Authority

19 Q. Is that your understanding as well?

20 MS. MARASCO: If you'll let me finish my
21 question.

22 A. I guess. I'm not sure what this is for.

23 MS. MARASCO: Okay.

24 MR. BERNFELD: Off the record for a moment.

25 (Discussion off the record.)

1 MS. MARASCO: We'll take a five-minute break.

2 (Recess taken from 11:52 a.m. to 11:58 a.m.)

3 MS. MARASCO: Back on the record. It's 11:58.

4 I'm going to hand another document to the court

5 reporter, and there will be Exhibit 17.

6 (Plaintiff's Exhibit No. 17 was marked for

7 identification.)

8 BY MS. MARASCO:

9 Q. Ms. Werner, do you recognize this document?

10 A. Recognize it from when?

11 Q. Do you recognize it at all?

12 A. From Ken's deposition I remember it was

13 produced.

14 Q. Okay. And it appears to be a request for a

15 wire transfer for \$500,000 made by the Ken-Wen Family

16 Limited Partnership; is that correct?

17 A. Yes.

18 Q. And do you recognize this as Ken's handwriting?

19 A. Yes.

20 MR. BERNFELD: Clarification. Are you saying

21 that all of the handwriting is Ken's? Because that's

22 not clear.

23 BY MS. MARASCO:

24 Q. Do you recognize any of this handwriting to be

25 Ken's?

1 A. Yes.

2 Q. And then there appears to be a notation on the
3 right-hand side that says, "Profile: Ken-Wen, 3.6 mil,
4 5-12/31," and that appears to be different handwriting; is
5 that correct?

6 A. Yes.

7 Q. Okay. And this is a fax request to Madoff
8 Investment Securities, LLC; is that correct?

9 MR. BERNFELD: Where does it say "faxed"?

10 MS. MARASCO: At the top of the page it says,
11 "Faxed: 212-858-4061."

12 MR. BERNFELD: I see. Thank you.

13 MS. MARASCO: Sure.

14 A. Yes.

15 BY MS. MARASCO:

16 Q. Do you recall why the Partnership would have
17 requested a \$500,000 wire --

18 MR. BERNFELD: Object as to form.

19 MS. MARASCO: I didn't finish my question,
20 Mr. Bernfeld.

21 MR. BERNFELD: Sorry. I thought you did.

22 BY MS. MARASCO:

23 Q. Do you recall why the Ken-Wen Partnership may
24 have requested \$500,000?

25 MR. BERNFELD: Object as to form. You may

1 answer.

2 A. I don't remember.

3 BY MS. MARASCO:

4 Q. And then there is bank account information
5 that's listed here; is that right?

6 A. For a wire it looks like, yes.

7 Q. And it identifies an account number ending in
8 5748, and an ABA identified as 5795; is that correct?

9 A. Yes.

10 Q. Okay. And that's to Paradise Bank?

11 A. Yes.

12 Q. Okay. Do you recall whether the Partnership
13 ever received a \$500,000 wire from BLMIS?

14 A. I don't remember.

15 MS. MARASCO: I'm going to hand a document to
16 the court reporter, and this will be Exhibit 18.

17 (Plaintiff's Exhibit No. 18 was marked for
18 identification.)

19 BY MS. MARASCO:

20 Q. I'm looking at this document. I will represent
21 to you that it is a bank statement from JP Morgan Chase for
22 the account held by Bernard L. Madoff Investment
23 Securities. If you look at the top right-hand corner, the
24 account statement is for the period December 1, 2007 to
25 December 31, 2007. Did I read that correctly?

1 A. Yes.

2 Q. And then if you turn to Page 51 of 52 -- the
3 page numbers are sort of in the middle underneath the date.
4 I'm looking at that page. Are you there?

5 A. I think so.

6 Q. Okay. If you look, this is for the activity on
7 12/31/2007. Just up from the bottom -- second up from the
8 bottom in terms of debits -- or third, there appears to be
9 a Fedwire debit via Paradise Bank, account ending 5795,
10 "A/C Ken-Wen Family Limited Partnership. Your reference:
11 Ken-Wen." Do you see that there?

12 A. Yes.

13 MR. ROHER: What page number at the bottom?

14 MS. MARASCO: So this is 51 of 52. And the
15 page numbers are identified just --

16 MR. ROHER: No, just the Bates. I'm sorry.

17 MS. MARASCO: I'm sorry. The Bates number is
18 3455.

19 MR. ROHER: Thank you.

20 MS. MARASCO: Ending in 3455.

21 BY MS. MARASCO:

22 Q. So is it accurate -- is it fair to say that
23 \$500,000 was wired to Ken-Wen's bank account at Paradise
24 Bank on 12/31/2007?

25 MR. BERNFELD: I object to the form. Are you

1 asking her whether she's vouching for that?

2 MS. MARASCO: I'm asking her understanding of
3 what this bank statement means.

4 MR. BERNFELD: How would she know? It's not
5 her bank statement. How can you be asking her that?

6 BY MS. MARASCO:

7 Q. On 12/31/2007, do you see where it says,
8 "Fedwire debit via Paradise Bank," ending 5795; do you see
9 that?

10 A. I see that, yes.

11 Q. And turning back to Exhibit No. 17 that we just
12 referred to, which identifies Ken-Wen's bank account at
13 Paradise Bank, ABA ending 5795. Do you see that as well?

14 A. Yes.

15 Q. Okay. Do you have any reason to believe that
16 the \$500,000 was not deposited into Ken-Wen's bank account
17 ending 5795?

18 MR. BERNFELD: Object as to form.

19 A. From what it shows that it was. But whether or
20 not it did, I don't remember.

21 BY MS. MARASCO:

22 Q. You testified earlier that you reviewed the
23 bank statements contemporaneously that were received from
24 Paradise Bank; is that correct?

25 A. Yes.

1 Q. Why might \$500,000 have been wired to an
2 account at Paradise Bank held by Ken-Wen?

3 MR. BERNFELD: Object as to form.

4 A. I said I don't remember.

5 BY MS. MARASCO:

6 Q. Is it possible that this amount was deposited
7 after the amount was requested based on the facts?

8 MR. BERNFELD: I'm going to object. When you
9 ask, "Is it possible?" Anything is possible. It's
10 objectionable.

11 MS. MARASCO: Thank you for your testimony,
12 Mr. Bernfeld.

13 MR. BERNFELD: No, it's an improper question.

14 MS. MARASCO: You can object to form.

15 MR. BERNFELD: I object as to form.

16 MS. MARASCO: Understood. If she doesn't
17 understand the question, again, I would just ask you
18 to ask me to rephrase. Fair?

19 MR. BERNFELD: But you should be asking her --

20 MS. MARASCO: Mr. Bernfeld --

21 MR. BERNFELD: -- about her knowledge, not
22 about "Is it possible?" or "What could it be?" Those
23 are not proper questions, and they call for a legal
24 objection. I'm not going to permit the witness to
25 speculate as to "Is anything possible?"

1 BY MS. MARASCO:

2 Q. Do you have any reason to believe that these
3 funds were not received by Ken-Wen in the Paradise Bank
4 account?

5 A. I'm not saying they weren't received. I just
6 don't remember why that was requested and -- or where they
7 went.

8 MR. BERNFELD: And what exhibit is that?

9 THE COURT REPORTER: 18.

10 BY MS. MARASCO:

11 Q. And so just to clarify that, do you recall what
12 the Partnership did with the \$500,000 that appeared to have
13 been deposited into the Paradise Bank account?

14 MR. BERNFELD: Going to object to the question.
15 It assumes facts that the witness has already said she
16 doesn't remember. And you're asking her now to tell
17 you about what she doesn't remember and where did it
18 go. I object to the form. And I don't think it's a
19 proper question. I think you just --

20 MS. MARASCO: I'm going to ask you just to make
21 a simple objection rather than a speaking --

22 MR. BERNFELD: I will make my objection based
23 on what I think is important. I want it clear on the
24 record that I tried to inform you as to the basis for
25 my objection so that you could correct your question

1 and we don't have to get into a debate down the road
2 as to whether the form was technically proper or
3 improper. If you want to ask her does she know
4 whether something happened, fine. If she says she
5 doesn't know, you can't ask her beyond that. You
6 can't ask her to speculate.

7 MS. MARASCO: This is a deposition,
8 Mr. Bernfeld. All rights are reserved with the
9 exception of objections to form and privilege. All
10 objections are reserved.

11 MR. BERNFELD: And this is to form. And there
12 comes a point where it behooves everyone to avoid
13 problems as to form.

14 MS. MARASCO: I appreciate that, and I will
15 proceed accordingly. Thank you.

16 MR. BERNFELD: That's fine.

17 MS. MARASCO: We're going to proceed with the
18 deposition now.

19 MR. BERNFELD: Okay.

20 MS. MARASCO: Okay. I'm going to hand another
21 document to the court reporter, and this will be
22 marked as Exhibit 19.

23 (Plaintiff's Exhibit No. 19 was marked for
24 identification.)

25 BY MS. MARASCO:

1 Q. Ms. Werner, do you recognize this document?

2 A. I recognize it from Ken's deposition, yes.

3 Q. Okay. And what do you recognize it to be?

4 A. A wire transfer from Madoff Investment
5 Securities to Ken-Wen.

6 Q. And what is the requested amount?

7 A. \$3 million.

8 Q. And to be clear it says, "Please liquidate" --
9 it's a little bit hard to read. But it says, "Please
10 liquidate 3 million from the account and wire transfer
11 proceeds to Ken-Wen Family LP." Is that what you see as
12 well?

13 A. Yes.

14 Q. Okay. And what is the reference account number
15 towards the top of the page?

16 A. 1EM226-3-0.

17 Q. And at the top left-hand corner, do you see a
18 date on the page?

19 A. 1/23/2008.

20 Q. Okay. And I apologize if you said this. But
21 this appears to be faxed; is that correct?

22 A. Yes, there's a fax number on there.

23 Q. And then it also says, "fax" in the top
24 right-hand corner; is that right?

25 A. That's where I see it, yes.

1 Q. Okay. I just wanted to be clear. And then
2 towards the top of the page, do you recognize the
3 handwriting at the top of the page to be Ken Brown's
4 handwriting?

5 A. Yes.

6 Q. Okay. And do you recognize the bottom, the
7 signature, to be his?

8 A. Yes, it appears to be his.

9 Q. And do you recall why the Partnership faxed a
10 request on January 23rd, 2008, to liquidate \$3 million from
11 Account 1EM226-3?

12 MR. BERNFELD: Object to form.

13 THE WITNESS: Can I answer?

14 BY MS. MARASCO:

15 Q. You can answer.

16 A. It was going to be invested somewhere else.

17 Q. And where was it going to be invested?

18 A. Well, it went into -- it looks like the wire
19 transfer went to Ken-Wen at Paradise Bank.

20 Q. After Paradise Bank, was it transferred
21 elsewhere?

22 A. It was wired out of there, yes.

23 Q. And to where was it wired?

24 MR. BERNFELD: If you know.

25 A. Internationally to an international account.

1 BY MS. MARASCO:

2 Q. And what account was that?

3 A. It was with Southpac in Nevis.

4 Q. I'm sorry. Southpac in what?

5 A. In Nevis.

6 MR. ROHER: Nevis?

7 MR. BERNFELD: Nevis.

8 THE WITNESS: Nevis, Nevis, however you say it.

9 MR. ROHER: Southpac?

10 THE WITNESS: Yes.

11 MR. ROHER: What's Southpac?

12 BY MS. MARASCO:

13 Q. Who --

14 MR. ROHER: Sorry.

15 MR. BERNFELD: I think that's her next --

16 MR. ROHER: Sorry. I'm sorry to steal your
17 thunder.

18 BY MS. MARASCO:

19 Q. What is Southpac?

20 A. It was an account that was set up overseas.

21 Q. Who is the account holder?

22 A. I believe it was set up as a trust for my
23 children, but I don't remember the names of the account.

24 Q. So the account was held by the trust; is that
25 correct?

1 A. Yes.

2 Q. Okay. Are the \$3 million still in that trust?

3 A. No.

4 Q. What happened to them?

5 A. They were wired back.

6 Q. Wired back to where?

7 A. Wired back to the United States.

8 Q. To which account?

9 A. I don't know if it went into an account per se.
10 I think it just went to a lawyer's office in an escrow
11 account.

12 Q. For what purpose?

13 A. To repay a loan that Ken owed my -- the Marital
14 Trust 2.

15 Q. Can you explain that?

16 A. When the SEC -- there was an action in the SEC
17 involvement -- there was -- for 6.2 million. And in order
18 to provide that money, it was taken from an account from
19 the Harvey Werner Trust Marital Trust 2 to pay the SEC.
20 And in order to do that, it was required to have a loan
21 from just Ken Brown to repay that to the Marital Trust 2
22 for the 6.2 million.

23 Q. When did the 6.2 million amount to the SEC
24 become due?

25 A. March of 2008.

1 Q. We discussed earlier the Compliance Agreement
2 between Paradise Bank, Kenneth Brown, and KBCB for a loan
3 of \$3,025,000. Does that loan have anything to do with the
4 amounts payable to the SEC?

5 A. No.

6 Q. Okay. Just to be clear, when were the funds
7 wired from Southpac in the Nevis to Harvey Werner Marital
8 Trust 2? And correct me if I misstated that.

9 MR. ROHER: You misstated that.

10 MS. MARASCO: Okay.

11 BY MS. MARASCO:

12 Q. How did the funds come to be in Harvey Werner
13 Marital Trust 2?

14 A. The funds that originated from?

15 Q. Correct.

16 A. They were taken from another account that my
17 parents had with Madoff.

18 MR. ROHER: I'm confused.

19 MR. BERNFELD: I don't think that's what you're
20 asking about.

21 THE WITNESS: Oh, I don't know.

22 BY MS. MARASCO:

23 Q. Where did the funds go when they left the
24 account Southpac in the Nevis?

25 A. Oh, where did they go from there. They were

1 wired back to like I -- I already answered that question.

2 MR. BERNFELD: That's true.

3 BY MS. MARASCO:

4 Q. If you'll do me the courtesy of repeating.

5 MR. BERNFELD: No problem. Just repeat it.

6 A. They were wired to an escrow account.

7 BY MS. MARASCO:

8 Q. And that was an escrow account held by a
9 lawyer; is that correct?

10 A. Yes.

11 Q. Okay. And then you referenced the Harvey
12 Werner Marital Trust 2. How does that come into play?

13 A. That's where the funds came from to pay the SEC
14 for the judgment.

15 Q. What were the funds used in the escrow
16 account -- were the funds in the escrow account held by the
17 attorney also used to pay the SEC? What was the purpose of
18 those funds?

19 A. To repay the loan. There was a loan agreement
20 set up when the funds were paid from the Marital Trust to
21 the SEC for 6.2 million. There was a loan agreement.

22 Q. Okay.

23 A. And in that loan agreement in order for the
24 check to be written, we -- the money came back from
25 overseas to pay part of the loan back.

1 Q. Okay. So if I understand -- and correct me if
2 I'm wrong -- the Harvey Werner Marital Trust 2 paid the
3 SEC, and then was repaid from the funds in the escrow
4 account held by the lawyer?

5 MR. BERNFELD: In part, she said.

6 BY MS. MARASCO:

7 Q. Repaid in part. How much was repaid?

8 A. I'm not sure of the exact amount.

9 Q. Was it over 50 percent?

10 A. I don't know. Because the -- some of the
11 amount was -- some of the money that was sent overseas was
12 kept overseas because they wouldn't -- they had to keep
13 10 percent supposedly of the amount that was sent there.
14 So then the rest was sent, but I don't know if it all went
15 to repay the loan or not.

16 Q. Was the loan to the Harvey Werner Marital Trust
17 2 ever repaid in full?

18 A. No.

19 Q. And then are the funds -- the 10 percent of the
20 funds that were left at Southpac, are those funds still
21 there?

22 A. No.

23 Q. What happened to those funds?

24 A. They had a lot of fees involved that were based
25 on the full amount that was sent over there, which kind of

1 ate up all of the proceeds of what was left.

2 Q. Was that account ever closed?

3 A. Yes.

4 Q. When was this closed?

5 A. I don't remember. A few years ago, though.

6 Q. When you say "a few years ago," do you mean
7 more recently or are we talking back towards 2012?

8 A. I don't remember when, but I know it's been at
9 least five years I'd say. I don't know.

10 Q. So if I understand this correctly -- and please
11 do correct me if I'm wrong -- there was a request to
12 liquidate \$3 million from the Ken-Wen -- from BLMIS account
13 to Ken-Wen. Those funds were deposited to Paradise Bank;
14 is that right?

15 A. Wired, yes.

16 Q. Wired. Sorry. And then from Paradise Bank,
17 they were wired to Southpac?

18 A. Yes.

19 Q. And then at some point they were wired to the
20 United States to an escrow account. And from the escrow,
21 the funds, whatever balance was in there, were used to
22 repay Harvey Werner Marital Trust 2; is that right?

23 A. Yes.

24 Q. Okay. Did I miss any steps along the way?

25 A. No, except I just don't remember the amounts.

1 Q. Okay. And when the \$3 million was transferred
2 out of -- I'm sorry. When the \$3 million was liquidated
3 from the BLMIS account, do you recall how much was left, if
4 anything, in the BLMIS account?

5 A. Well, I know there was another --

6 MR. BERNFELD: "Do you recall" was the
7 question.

8 A. I don't recall the balance after this was taken
9 out, no --

10 BY MS. MARASCO:

11 Q. Do you know if --

12 A. -- exact balance.

13 Q. I'm sorry. I didn't catch that.

14 A. I don't remember the exact balance after this 3
15 million was taken out, but I know there was still an
16 account there.

17 Q. And do you recall there were any funds left in
18 the account after the \$3 million was liquidated?

19 A. There were funds still in the account, yes. I
20 just don't know the amount.

21 Q. Okay. And how did the Partnership come to --
22 why did the Partnership request \$3 million? Was there any
23 significance to that amount?

24 MR. BERNFELD: If you know.

25 A. Because I'm not sure why it was that exact

1 amount, no.

2 BY MS. MARASCO:

3 Q. Just to back up for a second. The Harvey
4 Werner Marital Trust 2 paid the SEC in connection with the
5 6.2 million that was due. Who owed the 6.2 million to the
6 SEC, which entity or entities?

7 A. It was a judgment against myself and Ken Brown.

8 Q. Personally?

9 A. Through the corporations and ourselves.

10 Q. Which corporations?

11 A. K.W. Brown Investments.

12 Q. Was 21st Century also one of the companies?

13 A. Yes.

14 MS. MARASCO: I'm going to hand another
15 document to the court reporter, and this will be 20.

16 (Plaintiff's Exhibit No. 20 was marked for
17 identification.)

18 BY MS. MARASCO:

19 Q. Ms. Werner, do you recognize this document?

20 A. Yes.

21 Q. And what do you recognize it to be?

22 A. It's in Ken's handwriting to mail a check for
23 200,000 from Madoff Investment Securities to Ken-Wen.

24 Q. And then the account referenced there is
25 1EM226-3-0; is that correct?

1 A. Yes.

2 Q. And in the bottom left-hand corner, that's
3 different handwriting than Ken's; is that right?

4 A. Yes.

5 Q. And that says, "11/17"?

6 A. Yes.

7 Q. And then in the right-hand corner, the same
8 handwriting. That's also not Ken's. But correct me if I'm
9 wrong. It says, "Will be refunding Account 3.0 in" -- I'm
10 not sure what that symbol is. But did Ken-Wen ever refund
11 the account at any point?

12 A. No.

13 MR. BERNFELD: Do we have a year identified?

14 MS. MARASCO: As I mentioned, the date that is
15 written says, "11/17."

16 BY MS. MARASCO:

17 Q. And then to close that loop --

18 MS. MARASCO: I will ask you not to instruct
19 the witness in the middle of her deposition.

20 MR. BERNFELD: Do you have a question pending?
21 Are you telling me I can't talk?

22 MS. MARASCO: Yes, I am telling you that.

23 MR. BERNFELD: Well, fine. Put it on the
24 record and raise it wherever --

25 MS. MARASCO: You cannot direct your client how

1 to answer the questions.

2 MR. BERNFELD: I am not. There's no question
3 pending.

4 MS. MARASCO: I note for the record that
5 Mr. Bernfeld is whispering to Ms. Werner.

6 MR. BERNFELD: Again, is it your position that
7 I'm not allowed when there's no question pending --

8 MS. MARASCO: Yes.

9 MR. BERNFELD: -- to have a discussion with my
10 client?

11 MS. MARASCO: Yes, to the extent it relates to
12 the content of her testimony.

13 MR. BERNFELD: How do you know what it relates
14 to?

15 MS. MARASCO: I would ask -- if it doesn't,
16 then I would ask that you have it at the end of the
17 deposition.

18 MR. BERNFELD: Thank you very much.

19 MS. MARASCO: I will note that Mr. Bernfeld is
20 still whispering to his client.

21 MR. BERNFELD: I am still discussing with my
22 client, correct, as I have both a right and obligation
23 to do.

24 MS. MARASCO: Are you done conferring?

25 MR. BERNFELD: Yes, I am.

1 MS. MARASCO: Okay. Great. I'm going to hand
2 another document to the client, and this will be
3 marked as Exhibit 21.

4 (Plaintiff's Exhibit No. 21 was marked for
5 identification.)

6 BY MS. MARASCO:

7 Q. Ms. Werner, do you recognize this document?

8 A. This is the check for 200,000 that I assume is
9 referring to this fax.

10 Q. And who is the check from?

11 A. Bernard Madoff.

12 Q. And what is the date of the check?

13 A. 11/17. I can't read the year.

14 Q. So if you look to the left --

15 A. '08, maybe. Looks like '05, but it's stamped
16 '08 on the left.

17 Q. Yes. Okay. In the bottom left-hand corner, do
18 you see where it says "1-EM226-3"?

19 A. Oh, on the check itself?

20 Q. Correct.

21 A. Yes.

22 Q. And then if you turn to the second page, does
23 this appear to have been endorsed?

24 A. Yes.

25 Q. By whom?

1 A. Ken-Wen.

2 MR. BERNFELD: Read the whole thing.

3 A. Ken-Wen Family.

4 BY MS. MARASCO:

5 Q. Okay. And then it's a little difficult to
6 read. If you're still looking at the second page, if you
7 look at the typed text there, do you see at the top where
8 it says, "Bank of America/NA, MIA"?

9 A. Yes.

10 MR. BERNFELD: Where?

11 BY MS. MARASCO:

12 Q. We discussed earlier that Ken-Wen held a bank
13 account at Bank of America; is that correct?

14 A. Yes.

15 Q. Do you have any reason to believe that this
16 check was deposited into another account other than
17 Ken-Wen's bank account at Bank of America?

18 MR. BERNFELD: Object as to form.

19 A. Well, according to this, it went into this
20 account because it's --

21 MR. BERNFELD: I can't hear you.

22 A. According to this, it went into a Bank of
23 America account.

24 MR. BERNFELD: Just listen to the question.

25 BY MS. MARASCO:

1 Q. Do you recall what the Partnership did with the
2 \$200,000 that it received?

3 MR. BERNFELD: Object to the form.

4 A. I believe this was also wired internationally
5 to the same account.

6 BY MS. MARASCO:

7 Q. So the Southpac account?

8 A. Yes.

9 Q. And why was it wired to the Southpac account?

10 A. For the same reason the other money was, as an
11 investment.

12 Q. And to be clear, it was an investment in what?

13 A. I'm not sure what it was invested in. I don't
14 remember. But it was sent there as like a protection,
15 asset protection.

16 Q. I seem to recall that Mr. Brown indicated that
17 it was invested in foreign currency. Is that your
18 understanding as well? Or if you don't recall, that's fine
19 too?

20 A. Yeah, I don't recall.

21 Q. Okay. Do you recall whether any funds were
22 left in the BLMIS account after the \$200,000 withdrawal?

23 A. I know there was some still some funds in
24 there, yes.

25 MR. BERNFELD: Huh?

1 A. There was still some funds in the account, yes.

2 BY MS. MARASCO:

3 Q. Do you know how much?

4 A. I don't know exactly the amount, but it was
5 around 10,000 I'm estimating.

6 Q. Were the remaining funds ever transferred out
7 of the account prior to its closing?

8 A. No.

9 Q. Okay. You indicated that this \$200,000 was
10 ultimately wired to the Southpac account; is that right?

11 A. Yes.

12 Q. Were those funds also used in connection with
13 the repayment -- I'm sorry. Were those funds also
14 transferred to the escrow account along with the 3 million?

15 MR. BERNFELD: If you know.

16 A. I'm not sure. Because like I said, there was a
17 remaining balance overseas in that account as well. So I
18 don't know if that was a part of what was sent back or not.

19 BY MS. MARASCO:

20 Q. We discussed earlier that Ken may or may not
21 have resigned as a general partner sometime in 2008. I
22 believe his testimony was February of 2008. We just
23 discussed that this check is dated 11/17/2008. To your
24 knowledge, why -- we also discussed that based on
25 Exhibit 20, you identified the request for a \$200,000 wire

1 as Ken's handwriting. Why might Ken have been requesting a
2 withdrawal --

3 MR. BERNFELD: Object -- sorry.

4 BY MS. MARASCO:

5 Q. -- after he was no longer a general partner?

6 MR. BERNFELD: Object as to form.

7 BY MS. MARASCO:

8 Q. You can answer.

9 A. Apparently they still took this information
10 even though he wasn't a general partner, if he wasn't at
11 this time because it went through. He was still making
12 decisions for Ken-Wen. That didn't stop him from making
13 investment decisions.

14 Q. Did you recall having any discussion about
15 requesting a \$200,000 withdrawal?

16 MR. BERNFELD: With whom?

17 BY MS. MARASCO:

18 Q. With Mr. Brown.

19 A. I don't remember.

20 Q. Okay. We looked at the back of the check on
21 the endorsement, and we noted that it was deposited into a
22 Bank of America account. We discussed that Ken-Wen
23 Partnership had an account at Bank of America. Would
24 Mr. Brown still have had access to the Bank of America
25 account after resigning as general partner?

1 A. Yes.

2 MS. MARASCO: You can put that document aside.

3 I'm going to hand a document to the court reporter.

4 This will be Exhibit 22.

5 (Plaintiff's Exhibit No. 22 was marked for
6 identification.)

7 BY MS. MARASCO:

8 Q. Ms. Werner, do you recognize this document?

9 A. Looks like a bank statement.

10 Q. So the top left-hand corner, it's addressed to
11 Ken-Wen Family Limited Partnership, and the date is
12 11/30/2010. I will represent to you that this was produced
13 by Paradise Bank in relation to an account number ending
14 5748.

15 MR. BERNFELD: Ending, say that again.

16 MS. MARASCO: Account ending 5748.

17 MR. BERNFELD: Okay.

18 BY MS. MARASCO:

19 Q. If you look at that middle section where it
20 says "checking accounts," it shows two deposits and credits
21 equal to 6,400; and then four checks or debits equal to
22 \$6,476.32. Did I read that correctly?

23 A. Yes.

24 Q. And then on 11/3/2010, if you look down to
25 "deposits," it looks like there was a transfer from

1 Paradise Bank account to KBCB MMA in the amount of \$5500.

2 Do you see that?

3 A. Yes.

4 Q. Do you recall why those funds would be
5 transferred to KBCB MMA?

6 A. It looks like they came from there. They were
7 deposits.

8 Q. That's right. I'm sorry. It's a deposit. So
9 there was a transfer from KBCB MMA. There are two
10 transfers; one on 11/3, and one on 11/26. Do you recall --
11 or do you know why funds would be transferred from KBCB to
12 the Ken-Wen Family Limited Partnership in November of 2010?

13 A. I don't remember.

14 Q. And then if you look down it says, "checks and
15 withdrawals." And it looks like the entire account for
16 3,976.32 by three separate transfers was transfers to, it
17 just says, "Wendy." Do you know why funds would be
18 transferred to you?

19 A. I don't know what this is on the back, though.
20 It doesn't look like it was transferred to me. This has
21 got to be something else.

22 MR. BERNFELD: Do you remember the question?

23 A. No, I don't remember.

24 BY MS. MARASCO:

25 Q. So we'll look at the second page since I know

1 you were looking at that. This is Bates number ending 699.
2 It's a debit general ledger closing MMA account dated
3 11/29/2010. So based on that and based on the deposits and
4 additions, is it accurate to say that the KBCB MMA account
5 was closed in or about November 2010?

6 MR. BERNFELD: Object as to form.

7 A. I don't know which account. It doesn't -- you
8 said KBCB or you said Ken-Wen? I don't know. It doesn't
9 say.

10 BY MS. MARASCO:

11 Q. Funds from KBCB MMA were transferred to
12 Paradise Bank to Ken-Wen's bank at Paradise Bank. And I'm
13 looking at "deposits and additions."

14 MR. BERNFELD: Just listen to the question.

15 A. So what's the question?

16 BY MS. MARASCO:

17 Q. Was the KBCB MMA account closed on or about
18 11/29/2010?

19 A. Well, the balance on here is .00. And the end
20 of the month was November 30th. So it must --

21 MR. BERNFELD: Can you read that question back?

22 Because I think she --

23 MS. MARASCO: I understand, Mr. Bernfeld.

24 BY MS. MARASCO:

25 Q. I'm most interested in the three transfers;

1 11/3, 11/24, and 11/26 transferred to Wendy: \$3,000;
2 \$76.32; \$900. Do you know why amounts would be transferred
3 from the Ken-Wen account at Paradise Bank to Wendy?

4 A. I don't remember.

5 Q. Okay. And as you just noted, the ending
6 balance of the account as of 11/30/2010 was zero; is that
7 correct.

8 A. Yes.

9 Q. Okay. Do you recall ever taking any additional
10 steps on behalf of the Partnership to formally close this
11 account?

12 A. I don't remember.

13 Q. Is this account still active?

14 A. No.

15 Q. Do you recall when it was last active?

16 A. With Paradise Bank, you mean?

17 Q. Correct.

18 A. Well, it looks like it's closed as of 11/30 of
19 2010.

20 MR. BERNFELD: She's asking "do you recall,"
21 not what the paper says.

22 A. I don't recall.

23 BY MS. MARASCO:

24 Q. Okay. And then I will turn to the last page.

25 And that looks like a slip for a DDA deposit in the amount

1 of 38,823.59 to Ken Brown. Do you know what that might be?

2 MR. BERNFELD: Object to form.

3 A. No, I don't recall this. I don't know if it's
4 a deposit, withdrawal. It looks like it's both from what
5 it looks like. But I don't recall when this happened.

6 MR. BERNFELD: Answer the question asked.

7 BY MS. MARASCO:

8 Q. On the left-hand side, do you see it's written
9 vertically, "Deposit ticket. To be used for deposit
10 transactions only." Do you see that?

11 A. Yes.

12 Q. Do you know why Mr. Brown may have been
13 depositing \$38,000 and change into the Ken-Wen account in
14 2010?

15 A. No, I don't.

16 MR. BERNFELD: Object to form?

17 MS. MARASCO: Okay. I'm going to hand to the
18 court reporter to mark as Exhibit 23.

19 (Plaintiff's Exhibit No. 23 was marked for
20 identification.)

21 MR. ROHER: How much longer do you have?

22 MS. MARASCO: I have one more document after
23 this.

24 BY MS. MARASCO:

25 Q. I'll represent to you that these are the

1 responses by Ken-Wen Family Limited Partnership to the
2 Trustee's first set of interrogatories. And I'm looking at
3 the first page. It's actually No. 2. It says, "Answers to
4 First Set of Interrogatories by Ken-Wen Family Limited
5 Partnership." And I'd like you to take a look at
6 Interrogatory No. 5. So that interrogatory asks the
7 Defendants to "Identify each person or entity that ever
8 received funds withdrawn from the accounts, whether
9 directly or indirectly; (b), the amount of money that each
10 person or entity received; and (c), the dates on which each
11 person or entity received such money."

12 MR. BERNFELD: Did you say "defendants,"
13 plural, or "defendant"?

14 MS. MARASCO: And so this was for Defendant
15 Ken-Wen Family Limited Partnership.

16 MR. BERNFELD: Right.

17 MS. MARASCO: Thank you, Mr. Bernfeld.

18 BY MS. MARASCO:

19 Q. So there is an objection to form. And then the
20 second sentence of the answer to Interrogatory No. 5 says,
21 "In response, persons or entities that may have received
22 money from the account include: Ken-Wen, Clerk of United
23 States District Court for the Southern District of Florida,
24 Kenneth Brown --

25 A. I don't know where this is.

1 Q. -- Creditors of Defendant Ken-Wen --

2 A. Okay.

3 Q. Do you see where I read that there?

4 A. Yes. I was looking at what was above.

5 Q. Okay, that's fine. So the first one is just a
6 reproduction of the interrogatory that was served on the
7 Partnership. And then below that is the answer. And so in
8 response, the Partnership indicated that "Persons that may
9 have received money from the BLMIS account to include:
10 Ken-Wen" -- which we described before -- and then it says,
11 "The Clerk of the United States District Court for the
12 Southern District of Florida" -- it says, S.D. Florida --
13 "Kenneth Brown, Creditors of Defendant Ken-Wen, and BLMIS."
14 Why might the United States District Court for the Southern
15 District of Florida have received money from the account?

16 A. I'm not sure.

17 Q. Was the proceeding that we discussed earlier,
18 the action by the SEC as against 21st Century, K.W. Brown
19 Investments, and you and Mr. Brown -- if I've stated that
20 correctly -- was that proceeding -- was that in the
21 Southern District of Florida in the district court?

22 A. I believe so.

23 Q. Okay. And then this also references "Creditors
24 of Defendant Ken-Wen." Who does that include?

25 A. I'm not sure.

1 Q. And then Interrogatory No. 7, which is just
2 below. It says, "To the extent not already provided in
3 Your responses to the proceeding interrogatories, state how
4 You used any money You received from the transfers." Did I
5 read that correctly?

6 MR. BERNFELD: And the "you" refers to whom?

7 MS. MARASCO: The "you" is a defined term,
8 which is why it's capitalized.

9 MR. BERNFELD: I understand, but the witness
10 doesn't understand. So maybe we can make it clear to
11 her; otherwise, I object as unnecessarily confusing
12 and ambiguous, and I object to the form.

13 MS. MARASCO: Okay.

14 MR. BERNFELD: This is what exhibit?

15 THE WITNESS: 23.

16 BY MS. MARASCO:

17 Q. Were any of the funds that were withdrawn from
18 the BLMIS account transferred to another partnership in
19 which you had an interest?

20 MR. BERNFELD: Any time period?

21 MS. MARASCO: Nope.

22 A. Did you say "transferred"?

23 BY MS. MARASCO:

24 Q. Correct.

25 A. I don't remember. They may have been.

1 Q. And what other entities or partnerships may the
2 funds have been transferred to?

3 MR. BERNFELD: She says she doesn't remember.

4 "May have been."

5 MS. MARASCO: I'm asking the witness.

6 MR. BERNFELD: Yes, you are.

7 MS. MARASCO: Right.

8 MR. BERNFELD: And I'm objecting to the
9 question.

10 MS. MARASCO: You did not object.

11 MR. BERNFELD: Okay. I object to the question.

12 MS. MARASCO: Okay.

13 MR. ROHER: Okay. But she can answer it,
14 though.

15 MR. BERNFELD: I direct the witness not to
16 speculate as to what the question might mean. It's
17 totally unclear. The witness has already answered the
18 question that she doesn't remember. So what beyond
19 "doesn't remember" do you need other than she could
20 give you a telephone book and say, "It could have been
21 any of these." It's not a proper question.

22 MS. MARASCO: And that's not a proper
23 objection, so we'll keep moving on.

24 MR. BERNFELD: Okay. I mean, I --

25 BY MS. MARASCO:

1 Q. Were the funds --

2 MR. BERNFELD: Go ahead. I don't have a
3 problem with you --

4 MS. MARASCO: Can you -- please, you're
5 interrupting my deposition. I'd like to proceed with
6 the questions.

7 MR. BERNFELD: Oh, I thought you were waiting
8 for me to --

9 MS. MARASCO: No, I'm not.

10 MR. BERNFELD: -- talk. Go ahead.

11 BY MS. MARASCO:

12 Q. Were the funds from the Ken-Wen Partnership
13 transferred to another partnership?

14 MR. BERNFELD: Ever?

15 A. Not that I'm aware of.

16 MR. BERNFELD: Not going to clarify that?

17 BY MS. MARASCO:

18 Q. Your answer was not that you were aware of?

19 A. Yes.

20 Q. Okay. But we did discuss earlier that funds
21 from the Partnership were transferred to the offshore
22 account at Southpac; is that correct?

23 A. Yes.

24 Q. Other than Southpac, are you aware of any other
25 account to which funds from the Partnership were

1 transferred?

2 A. Not transferred per se, no.

3 Q. When you say "not transferred per se," was
4 there any other mechanism by which funds were moved?

5 A. Checks.

6 Q. Okay. Were there checks from the Partnership
7 to another entity or partnership?

8 A. I know there were a few checks written to a
9 golf course, one of Ken's golf courses, his personal golf
10 course.

11 Q. And was that held by a specific entity, the
12 golf course?

13 A. It was Lacuna.

14 MR. BERNFELD: Who?

15 THE WITNESS: Lacuna.

16 BY MS. MARASCO:

17 Q. That was the name of the entity?

18 A. That was the name of the golf course, yes.

19 Q. Of the golf course. Do you know how much was
20 transferred from the Partnership to Lacuna?

21 A. No.

22 Q. Do you know when those transfers would have
23 occurred?

24 A. 2004, 2005, in that time period. Maybe '06
25 too. I'm not sure.

1 Q. Okay. Did the Partnership file tax returns?

2 A. Yes.

3 Q. Did the Partnership's accountant assist with
4 the preparation of the Partnership's tax returns?

5 A. Yes.

6 Q. Did you assist in the preparation of the tax
7 returns for the Partnership?

8 A. Just in providing information that they needed.

9 MS. MARASCO: Okay. So I'm going to hand a
10 document to the court reporter to mark as Exhibit 24.

11 (Plaintiff's Exhibit No. 24 was marked for
12 identification.)

13 BY MS. MARASCO:

14 Q. Ms. Werner, do you recognize this document?

15 A. Yes.

16 Q. And what does it appear to be?

17 A. Apparently, they had a wrong a tax ID number,
18 and it's correcting it.

19 Q. When you "they," are you referring to Madoff
20 Securities, which is identified at the top?

21 A. Yes.

22 Q. And the date of this is December 20th, 2001; is
23 that correct?

24 A. Yes.

25 Q. Okay. And just to clarify it says, "In

1 reference to our Account No. 1-EM-226-3-0, Ken-Wen Family
2 LP LTD, our tax ID number is incorrect. It should be" --
3 the number -- "Please correct this. Thanks." And is that
4 your signature at the bottom?

5 A. Yes.

6 Q. Did I read that correctly?

7 A. Yes.

8 Q. Okay. What prompted you to correct the tax ID
9 for the Partnership?

10 A. I believe there was two set up by mistake or
11 something when it was originally set up for Ken-Wen. There
12 was two different numbers. So I had to clarify that.
13 Close one or -- I don't know how it happened. But I
14 vaguely remember that happening now, that there were two
15 numbers there, and they had the incorrect one.

16 Q. And how did you come to learn that BLMIS had
17 the incorrect tax ID number?

18 A. I think my accountant told me.

19 Q. And that was Ms. Shaw?

20 A. Yes.

21 Q. Was Ms. Shaw paid by the Partnership or by the
22 GPs?

23 A. Partnership.

24 Q. Partnership. As between you and Ken, who
25 provided the necessary information to Ms. Shaw so that she

1 could prepare tax returns --

2 MR. BERNFELD: Object --

3 BY MS. MARASCO:

4 Q. -- for the Partnership?

5 MR. BERNFELD: Object as to form. Sorry.

6 Object as to form.

7 A. Generally, it was me. But I don't know if Ken
8 provided information as well. I don't remember.

9 BY MS. MARASCO:

10 Q. And when you provided documents to Ms. Shaw to
11 prepare tax returns, was that information -- were those
12 documents returned to the Partnership?

13 MR. BERNFELD: Object as to form.

14 A. I assume so.

15 BY MS. MARASCO:

16 Q. Did Ms. Shaw have a separate location where she
17 prepared tax returns?

18 A. She had an office, yes.

19 Q. She had an office. Ms. Shaw passed away; is
20 that correct?

21 A. Yes.

22 Q. When Ms. Shaw passed away, did someone else
23 take over the firm or did the firm continue to exist?

24 A. Yeah, the firm exists. I believe her husband
25 has the firm now.

1 Q. Would the firm have any of Ken-Wen's financial
2 information?

3 A. I don't know if they still do.

4 Q. Do you still use the firm --

5 A. Yes.

6 Q. -- personally?

7 A. Yes.

8 Q. Okay. Did you ever receive a tax refund in
9 connection with the taxes you paid on behalf of the
10 Partnership?

11 MR. BERNFELD: Object as to form. Assumes
12 facts --

13 MS. MARASCO: This is a deposition.

14 MR. BERNFELD: Huh?

15 MS. MARASCO: There's no facts in evidence.
16 This is a deposition.

17 MR. BERNFELD: It assumes facts. You made a
18 factual statement.

19 MS. MARASCO: Thank you, Mr. Bernfeld.

20 MR. BERNFELD: You're welcome. Why are we
21 having this hostility. I'm making an objection.

22 MS. MARASCO: Can you please wait until we
23 finish the deposition. Thank you.

24 MR. BERNFELD: To make an objection?

25 MS. MARASCO: Are you making an objection?

1 MR. BERNFELD: Yes. I object as to form.

2 MS. MARASCO: Understood.

3 MR. BERNFELD: And to making a statement of
4 fact that has no support in the record.

5 MS. MARASCO: Your objection is noted for the
6 record. Thank you.

7 BY MS. MARASCO:

8 Q. Did you ever pay taxes on behalf of the
9 Partnership?

10 MR. BERNFELD: Object as to form.

11 A. Pay taxes? I believe so. But I don't remember
12 how much or when.

13 BY MS. MARASCO:

14 Q. Okay. Did the Partnership file tax returns
15 annually?

16 A. Yes.

17 Q. During the period of its existence between 2000
18 and 2012, did the Partnership ever not file a tax return?

19 A. Not that I'm aware of.

20 Q. Okay. Do you recall the last time the
21 Partnership filed a tax return?

22 A. I believe it was 2012.

23 Q. Who would have possession of the tax returns
24 that the Partnership filed?

25 A. Either myself or Doris Shaw's office.

1 Q. Do you personally have possession of the tax
2 returns?

3 A. I believe I have some of them. I don't know if
4 I have all of them.

5 Q. And where would you maintain the tax returns;
6 in your home, do you have an office?

7 A. At home.

8 Q. And when the Trustee requested documents in
9 connection with this advisory proceeding, what steps, if
10 any, did you take to locate any documents that were
11 requested?

12 MR. BERNFELD: Object as to form.

13 A. I don't remember.

14 BY MS. MARASCO:

15 Q. Do you recall receiving a request for
16 production from the Trustee in connection with this
17 proceeding?

18 A. Yeah, I don't remember.

19 Q. Do you recall ever producing documents to the
20 Trustee in connection with this proceeding?

21 MR. BERNFELD: Personally?

22 BY MS. MARASCO:

23 Q. Personally or on behalf of the Partnership.

24 A. I don't remember.

25 Q. Do you recall looking for documents in

1 connection with this proceeding?

2 A. No, I don't.

3 Q. Okay. And you said you may have some tax
4 returns with the Partnership previously filed. Are there
5 any other documents that you have in your possession that
6 relate to the Partnership?

7 A. I found some statements that were from the
8 Madoff account.

9 Q. Other than those statements, do you have
10 anything else in your possession that relates to this
11 proceeding?

12 A. I'm not sure. I may have other information.
13 I'm not sure. I'd have to look.

14 Q. And where would you look if you were to look?

15 A. Either at my house or probably -- or -- I don't
16 know where else they would be, unless the accountant's
17 office has documents. I don't know.

18 Q. Do you maintain a storage unit?

19 A. No.

20 Q. You mentioned that you received or you had
21 certain account statements in your possession; is that
22 right?

23 A. I had some Madoff account statements.

24 Q. Did you regularly receive account statements
25 from Madoff?

1 A. During the course when the account was open I
2 did.

3 Q. Correct. Okay. And did you ever receive trade
4 confirmations during the life of the Partnership?

5 A. From --

6 Q. From Madoff.

7 A. -- this Madoff account?

8 Q. Correct.

9 A. I remember receiving it at one time. I don't
10 know if it was during the whole time period of the account.

11 Q. Okay. To the extent you received them, did you
12 keep them, did you throw them away. What might you have
13 done with them?

14 MR. BERNFELD: Object as to form.

15 A. Of confirmations you're talking about now?

16 BY MS. MARASCO:

17 Q. I'm talking about any documents that you
18 received from BLMIS, to the extent they sent you something,
19 did you have a regular practice of filing it, did you throw
20 it away?

21 A. I don't remember throwing it away. But I don't
22 know if I have them all still.

23 Q. Understood. When did you first hear that
24 Madoff was a fraud?

25 A. Right when it happened in 2008. In December of

1 2008 when it hit the news or a phone call from my brother
2 or my mother. I don't remember exactly. But I know it was
3 the day that he was arrested.

4 Q. When you found out, and with respect to the
5 account held by the Partnership, what, if anything, did you
6 do?

7 MR. BERNFELD: Would you exclude dealings with
8 counsel?

9 MS. MARASCO: Of course.

10 BY MS. MARASCO:

11 Q. I am not referring to discussions with counsel.
12 Did you take steps to withdraw the funds? Did you confer
13 with your accountant? Did you ever try to withdraw the
14 funds from the account once you found out Madoff was a
15 fraud?

16 A. I don't recall trying to take money out. I
17 know my accountant put in a request with SIPC -- I know
18 that -- to try to get reimbursed from the insurance for the
19 account.

20 Q. And at that time I believe we discussed earlier
21 you thought the account balance may have hovered around
22 10,000. Does that sound correct?

23 A. Yeah. That's just from my recollection, but
24 I'm not sure exactly how much was in there.

25 Q. Understood. Did you file a claim with the

1 Trustee in connection with the loss?

2 A. I believe so, or my accountant did. I'm not
3 sure.

4 Q. And that was the SIPC claim that we were
5 just -- was that the SIPC claim that we just discussed?

6 A. Yes.

7 Q. Okay. Did you file a proof of claim in the
8 Madoff bankruptcy?

9 MR. BERNFELD: If you know.

10 A. I'm not sure.

11 MS. MARASCO: Okay. Mark, do you have any
12 questions?

13 MR. ROHER: Yes, I have quite a few. But we
14 have to have lunch.

15 MS. MARASCO: Okay. So how long do you want to
16 break for?

17 MR. ROHER: A sandwich. I'm going to answer
18 your question the same way you answered my questions.
19 So "a sandwich."

20 MS. MARASCO: I'm sorry. I'm not following.

21 MR. ROHER: I asked you how much longer. You
22 said, "Three documents." So that's not a -- so I'm
23 saying --

24 MS. MARASCO: I didn't have a number.

25 MR. ROHER: So I'm saying however long it takes

1 for me to get a sandwich. But let's say half an hour.

2 MR. BERNFELD: I think she's asking how long
3 you're going to be with the witness.

4 MR. ROHER: Is that what you're asking me? Or
5 how long --

6 MS. MARASCO: No. I was asking how long you
7 want to break.

8 MR. BERNFELD: My mistake.

9 MR. ROHER: Let's try 45 minutes.

10 MS. MARASCO: Do you think we can make it half
11 an hour?

12 MR. ROHER: I'll try. We're not going to
13 finish today anyway.

14 MR. BERNFELD: Why?

15 MR. ROHER: Because I don't have any documents.
16 Put on the record that I haven't received any
17 documents. I've made a document request at the end of
18 December. It sounds like you didn't -- Trustee didn't
19 get any documents either; is that correct?

20 MS. MARASCO: That's correct.

21 MR. ROHER: So I don't know how we can --

22 MR. BERNFELD: That's --

23 MR. ROHER: Do you agree how can we --

24 MR. BERNFELD: That's not true.

25 MR. ROHER: Can you not interrupt me, please?

1 Are you in agreement, I don't see how we can finish
2 today? I mean, we don't have documents.

3 MS. MARASCO: I have documents.

4 MR. ROHER: Well, he never -- you never got any
5 documents from the defense.

6 MS. MARASCO: I provided you the entire data
7 room.

8 MR. ROHER: No, no, that's not what I'm saying.
9 I'm saying you never got any documents from Ken-Wen or
10 Wendy Brown. Is that what you're saying?

11 MS. MARASCO: They were all subpoenaed from
12 third-party sources.

13 MR. ROHER: Okay. But they didn't answer your
14 discovery. Is that what happened?

15 MR. BERNFELD: That's not true. We referred
16 your office -- not you. I didn't speak to you about
17 it -- to the fact that Doris Shaw at the time had
18 possession of all of the documents that you would have
19 requested or that was requested by your firm. And I
20 am virtually certain that she was contacted and
21 documents were produced.

22 MS. MARASCO: Ms. Shaw had passed away.

23 MR. BERNFELD: I'm talking before that, before
24 then. She passed away in '15 -- 2015.

25 THE WITNESS: I don't know if it's been that

1 long or not. I don't know. It's been a couple of
2 years, though.

3 MR. BERNFELD: Maybe later. But seriously, if
4 you check --

5 MS. MARASCO: I can represent to you that we
6 have not received anything from your client or
7 Ms. Shaw.

8 MR. BERNFELD: Okay.

9 MR. ROHER: And are you disputing that you
10 haven't produced any documents responsive to my
11 request?

12 MR. BERNFELD: I had a discussion with you
13 today about responding to it. And I will respond to
14 it as soon as I get back to my office.

15 MR. ROHER: But what is "respond"? You're
16 going to produce documents? What does that mean?

17 MR. BERNFELD: I'm going to look and see if we
18 have responsive documents.

19 MR. ROHER: Okay. Well, your client just
20 testified that there are some responsive documents.
21 There's tax returns. And she said she has statements.
22 So there are some responsive documents.

23 MR. BERNFELD: And you will get them.

24 MR. ROHER: Okay. But I am entitled to have
25 those documents when I ask questions of her, am I not?

1 MR. BERNFELD: And that's fine. Then adjourn.
2 We'll do it another day.

3 MR. ROHER: Well, that's what I'm saying. I'm
4 trying to work out something.

5 MR. BERNFELD: Okay.

6 MR. ROHER: And if Trustee's counsel wants to
7 appear by phone, I don't have a problem with that.

8 MR. BERNFELD: I don't either.

9 MR. ROHER: Because I would rather have all the
10 documents, or have whatever documents there are. I
11 have knowledge -- Trustee's counsel has provided me
12 documents. That's not the issue. The issue is I want
13 documents responsive -- I want a response to my
14 request to produce, and I want documents. I don't
15 want to have to set the motion to compel for a
16 hearing. I just want to get this deposition over
17 with.

18 MR. BERNFELD: And we will do that.

19 MR. ROHER: Okay.

20 MR. BERNFELD: And you and I will agree on a
21 convenient date.

22 MR. ROHER: Within the next reasonable time.

23 MR. BERNFELD: Of course, of course.

24 MR. ROHER: I'm sorry. I forgot your last
25 name. I'm sorry.

1 MS. MARASCO: Marasco.

2 MR. ROHER: Ms. Marasco, do you have any issue
3 with that?

4 MS. MARASCO: This matter has been pending for
5 a long time. And I appreciate that you haven't
6 received documents. I would just ask that it'd be
7 concluded as soon as possible.

8 MR. ROHER: I don't have a problem with that.

9 MR. BERNFELD: Nor do I.

10 MR. ROHER: And I think that's fine. I was
11 getting -- and just for the record, I'm not saying
12 that Mr. Bernfeld didn't have -- doesn't want to work
13 it out with me. That's fine. I just was getting -- I
14 thought I was getting push back from Trustee's
15 counsel. So I just want -- if there's just an
16 agreement that we can reconvene, I don't know if it
17 makes sense for me to start and stop.

18 MR. BERNFELD: It doesn't.

19 MR. ROHER: I don't think it does. So what I'm
20 proposing is that obviously don't -- Trustee's
21 counsel, we have no objection for you appearing by
22 phone to listen to my questioning. If you want to
23 come down here, that's fine. I don't want to make the
24 estate incur any unnecessary expense. We can have the
25 deposition here. You can call in. That's your

1 choice. But I would like the opportunity to have the
2 documents, whatever documents are going to be produced
3 by Ken-Wen --

4 MR. BERNFELD: No problem.

5 MR. ROHER: -- I want those to be the universe
6 of documents that are responsive to my request, and
7 you'll answer my questions. I probably don't have
8 more than hour. But what I'm saying is I'd rather not
9 start now, and then continue. I'd rather just reserve
10 and adjourn. Does that sound okay?

11 MR. BROWN: Yes.

12 MR. ROHER: I think that makes sense.

13 MR. BROWN: Everything you're saying is
14 appropriate.

15 MR. ROHER: Is that okay with everyone?

16 MS. MARASCO: I don't have an objection to
17 that. I've asked what I need to ask.

18 MR. ROHER: Okay. That's fine. I appreciate
19 it. So why don't we just do that.

20 MR. BERNFELD: That's fine.

21 MR. ROHER: And then you can go and catch a
22 plane or whatever it is that you need to do. And I'll
23 get my documents from -- can we at least agree on the
24 record when I get these documents? Let me ask you one
25 question. When do you think you can look through the

1 documents, get them to your client?

2 MR. BERNFELD: I will respond to you early next
3 week and tell you what the status is, get the
4 documents to you, and pick a convenient date.

5 MR. ROHER: Okay. And if Ms. Carolyn's [sic]
6 not going to come down, maybe we can meet halfway so
7 you don't have to come down as far. Because I know my
8 client has to come down as far.

9 MR. BERNFELD: Maybe we'll go to your office.

10 MR. ROHER: That's fine. So I think -- I think
11 Trustee's counsel is just concerned about the time.
12 And I think Trustee's counsel wants to have an outside
13 date to get this done, correct?

14 MS. MARASCO: That's correct.

15 MR. ROHER: Okay. Can we agree on the
16 deposition will -- my questioning will conclude --
17 what's the outside date? I'd like to get it I think I
18 want to say before March 21st.

19 MR. BERNFELD: That's okay.

20 MR. ROHER: Because I think I'm going -- I
21 think I have spring break. And I'd like to just --
22 you probably just need an hour, two hours at the most.

23 MR. BERNFELD: Are you going be traveling
24 between now and March 21st?

25 MR. ROHER: I believe it's the 21st. Something

1 like that.

2 THE WITNESS: I don't think so.

3 MR. ROHER: We don't have to pick a date right
4 now. We can obviously clear the date. Because I just
5 want -- because I know Trustee's counsel is concerned
6 with there being an outside -- and I don't blame her.

7 MR. BERNFELD: And I am comfortable with that.

8 MR. ROHER: Just so you know, the 20th is a
9 Friday. So 21st is a Saturday. So can we shoot for
10 the week of the 16th?

11 MS. MARASCO: For what?

12 MR. ROHER: To have the deposition the week of
13 March 16th.

14 MR. BERNFELD: Sure.

15 MR. ROHER: Does that sound reasonable?

16 MR. BERNFELD: Is that good for you?

17 MS. MARASCO: When do you want documents by?

18 MR. ROHER: When can I get documents by? Can
19 we say two weeks? Two weeks will give you --

20 MR. BERNFELD: I will endeavor to do it. I
21 can't commit until I see what they are.

22 MR. ROHER: I understand.

23 MR. BERNFELD: Look, we --

24 MR. ROHER: I understand.

25 MR. BERNFELD: Can we go off the record?

1 MR. ROHER: I think we're okay. That's fine.

2 THE COURT REPORTER: Does she want to read or
3 waive?

4 MR. BERNFELD: Yes, read.

5 THE COURT REPORTER: And you wanted to order
6 the transcript?

7 MS. MARASCO: Can we follow up on email with
8 that?

9 THE COURT REPORTER: Of course.

10 MS. MARASCO: Let's do that.

11 THE COURT REPORTER: And you'd like a copy you
12 told me.

13 MR. BERNFELD: Of course.

14 THE COURT REPORTER: Mark, do you need a copy?

15 MR. ROHER: Not yet. I'll hold off for now.

16 (The deposition adjourned at 1:26 p.m.)
17
18
19
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25

1 CERTIFICATE OF OATH

2

3 THE STATE OF FLORIDA

4 COUNTY OF BROWARD

5

6

7 I, the undersigned authority, certify that
8 the witness, Wendy Elizabeth Werner, personally appeared
9 before me on the 25th day of February, 2020, and was duly
10 sworn.

11

12 Signed this 3rd day of March, 2020.

13

14

15

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17

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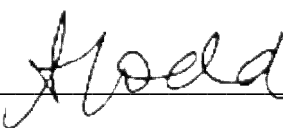
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SAMANTHA TODD, FPR
Notary Public - State of Florida
My Commission No. GG 270572
Expires: December 3, 2022

1 CERTIFICATE OF REPORTER

2

3 THE STATE OF FLORIDA

4 COUNTY OF BROWARD

5

6 I, SAMANTHA TODD, Shorthand Reporter and Notary
7 Public, State of Florida, HEREBY CERTIFY that I was
8 authorized to and did stenographically report the
9 deposition of Wendy Elizabeth Werner; that a review of the
10 transcript was requested, and the foregoing transcript,
11 pages 8 to 134, is a true and accurate record of my
12 stenographic notes.

13 I FURTHER CERTIFY that I am not a relative,
14 employee, attorney, or counsel of any of the parties, nor
15 am I a relative or employee of any of the parties' attorney
16 or counsel connected with the action, nor am I financially
17 interested in the action.

18

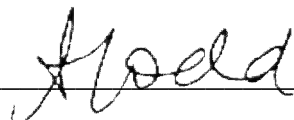
19 Dated this 3rd day of March, 2020

20

21

22

23

A handwritten signature in cursive script, appearing to read "S. Todd", is written over a horizontal line.

24

Samantha Todd, Notary Public,
State of Florida at Large

25

1	ERRATA SHEET
2	IN RE: SECURITIES INVESTOR PROTECTION CORPORATION vs.
3	BERNARD L. MADOFF INVESTMENT SECURITIES, LLC
4	CASE NO: Adv. Pro. No. 08-01789(SMB) and Adv. Pro. No.
5	10-04468(SMB)
6	DEPONENT: Wendy Elizabeth Werner
7	Page No._____Line No._____Change to:_____
8	Reason for change:_____
9	Page No._____Line No._____Change to:_____
10	Reason for change:_____
11	Page No._____Line No._____Change to:_____
12	Reason for change:_____
13	Page No._____Line No._____Change to:_____
14	Reason for change:_____
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16	Reason for change:_____
17	Page No._____Line No._____Change to:_____
18	Reason for change:_____
19	Page No._____Line No._____Change to:_____
20	Reason for change:_____
21	Under the penalties of perjury, I declare that I have read
22	the foregoing document and that the facts stated are true.
23	
24	
25	DATE Wendy Elizabeth Werner

1 March 3, 2020

2 DAVID BERNFELD, ESQUIRE
3 Bernfeld, DeMatteo & Bernfeld, LLP
4 54 North Broadway
Suite 3
Tarrytown, NY 10591

5 IN RE: DEPOSITION OF: Wendy Elizabeth Werner
TAKEN ON: February 25, 2020
6 SECURITIES INVESTOR PROTECTION CORPORATION
vs. BERNARD L. MADOFF INVESTMENT
7 SECURITIES, LLC


8 Dear Mr. Bernfeld,

9 This letter is to advise you that the transcript taken in
the above-referenced deposition has been transcribed.
10 Please have your client read and sign.

11 The original of this transcript has been forwarded to the
12 ordering party and your errata, once received, will be
forwarded to all ordering parties for inclusion in the
13 transcript.

14 Sincerely,

15

16 
Samantha Todd, FDR
17 Daughters Reporting, Inc.
101 Northeast 3rd Avenue
18 Suite 1500
Fort Lauderdale, Florida 33301
19 daughtersreporting@gmail.com

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23

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